

**IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG LOCAL DIVISION, JOHANNESBURG)**

**Case No.:**

In the matter between:

**MPHO PHALATSE**

First Applicant

**DEMOCRATIC ALLIANCE**

Second Applicant

and

**THE SPEAKER OF THE CITY OF  
JOHANNESBURG**

First Respondent

**COLLEEN MAKHUBELE**

Second Respondent

**THE EXECUTIVE MAYOR OF THE CITY OF  
JOHANNESBURG**

Third Respondent

**DADA MORERO**

Fourth Respondent

**THE CITY MANAGER OF THE CITY OF  
JOHANNESBURG**

Fifth Respondent

**THE COUNCIL OF THE CITY OF JOHANNESBURG**

Sixth Respondent

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**FOUNDING AFFIDAVIT**

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I, the undersigned

**MPHO PHALATSE**

State under oath:



## I INTRODUCTION

1. I am the First Applicant. I am a councillor of the City of Johannesburg (**the City**), and, until recently, the City's Executive Mayor. I am a member of the Second Applicant (**the DA**).
2. The contents of this affidavit are, save where the context indicates otherwise, within my personal knowledge. The contents are true. Where facts are outside my personal knowledge, they are confirmed by those with personal knowledge.
3. Where I make legal submissions, I do so on the advice of the Applicants' legal representatives. I believe that advice is correct.
4. I was unlawfully removed from my position as Executive Mayor on 30 September 2022.
5. On 29 September, the First Respondent (**the Speaker**) – who had replaced the previous Speaker on 28 September 2022 – unlawfully convened an extraordinary meeting of the City Council for the next day. She gave councillors only 16 hours' notice that the sole purpose of the extraordinary meeting was to allow a motion of no confidence to be moved against me.
6. The decision to call the meeting was patently unlawful:
  - 6.1. The Speaker had the power to call an extraordinary meeting.
  - 6.2. But if the meeting was going to include a motion of no confidence in the Executive Mayor, she was required to afford councillors reasonable



notice of the meeting. 16 hours was self-evidently not reasonable notice when the motion had been pending for weeks.

- 6.3. The Speaker was also not permitted to act for an ulterior purpose. She had to call the meeting, and schedule the motion of no confidence in the interests of the City. Yet it is plain that she acted with such extreme haste solely to advance her own political interests.
7. The **decision to place the motion of no confidence on the agenda** for that meeting was also patently unlawful:
  - 7.1. It had to be taken by the City's Programming Committee.
  - 7.2. The Speaker called an urgent meeting of the Programming Committee on 29 September 2022 to attempt to place the motion on the agenda of the extraordinary council meeting she planned to call the next day.
  - 7.3. But the Programming Committee was not quorate when the decision to place the motion of no confidence on the agenda was taken. There needed to be at least seven members for a quorum, yet only six were present.
  - 7.4. Yet the Speaker acted as if there was a lawful decision. Again, the only explanation for her patently unlawful conduct is that she acted for an ulterior and impermissible purpose.
8. I attempted to approach this Court before the meeting to prevent it from occurring. Despite knowing that I had approached the Court to declare the



meeting unlawful, the Speaker insisted on proceeding with her illegal conduct. By the time my urgent application could be heard, the meeting had occurred and my application was removed from the roll with costs reserved.

9. At the meeting, the Council purported to adopt the motion of no confidence in me. Leaving aside that it had been unlawfully called, **the meeting itself was unlawful**:

9.1. The Speaker wrongfully held that DA councillors were not allowed to participate in the meeting because they had not signed the attendance register.

9.2. The Speaker unlawfully refused to grant the DA a caucus break to which it was entitled under the Council's rules.

9.3. The Speaker did not allow any debate on the motion of no confidence. She simply called for the motion to be adopted, seconded, and then voted on.

9.4. The Speaker's conduct can only be explained by an ulterior purpose inconsistent with her obligations as Speaker.

10. Immediately after the motion of no confidence was (illegally) passed, the Speaker called for the next item – the election of a new Executive Mayor. She then allowed a caucus break. When the Council reconvened, it purported to elect the Fourth Respondent (**Cllr Morero**) as the Executive Mayor.



11. The **election of Cllr Morero was unlawful** for the simple reason that there was no lawful vacancy. The decision to remove me as Executive Mayor was illegal, and therefore there was no vacancy for Cllr Morero to fill.
12. Accordingly, I seek to urgently set aside four decisions:
  - 12.1. The Speaker's decision to call an extraordinary council meeting on 30 September 2022;
  - 12.2. The Programming Committee's decision to place the motion of no confidence in me on the agenda for that meeting;
  - 12.3. The Council's decision purporting to adopt the motion of no confidence in me; and
  - 12.4. The Council's election of Mr Morero as the Executive Mayor.
13. The remainder of this Affidavit is structured as follows:
  - 13.1. **Part I** describes the parties;
  - 13.2. **Part II** sets out the relevant facts;
  - 13.3. **Part III** explains why the four decisions were unlawful; and
  - 13.4. **Part IV** justifies the urgency of this application.



## II THE PARTIES

14. I am the First Applicant. I was elected as a DA councillor in the November 2021 local government elections. I was then elected by the City Council as the Executive Mayor in November 2021. I bring this application in my own interest, and in the public interest. It is not in the public interest to allow an Executive Mayor to be removed, and a new one appointed illegally.
15. The Second Applicant is the DA, a registered political party. The DA has 71 seats in the 270 seat City Council. It brings this application in its own interest, in the interest of its members, and in the public interest.
16. The First Respondent is **THE SPEAKER**. She is cited in her official capacity as the person who took the decision to convene the Council meeting, as the Chairperson of the Programming Committee, and as the representative of the Council that adopted the motion of no confidence in me, and elected Cllr Morero. She will be served electronically and physically at her office in the City.
17. The Second Respondent is **COLLEEN MAKHUBELE** who was elected as Speaker on 28 September 2022. She is cited in her personal capacity because the DA seeks a personal costs award against her because she has abused her power as Speaker for impermissible ends.
18. The Third Respondent is **THE EXECUTIVE MAYOR OF THE CITY OF JOHANNESBURG**. The Fourth Respondent is the current occupant of that position, **DADA MORERO**, cited in his personal capacity because this application seeks to undo both my removal as the Executive Mayor, and the



election of Mr Morero. They will be served electronically, and at the offices of the Executive Mayor.

19. The Fifth Respondent is the **CITY MANAGER OF THE CITY OF JOHANNESBURG**. No relief is sought against the City Manager. He is cited for any interest he may have. He will be served electronically and physically at his office.

20. The Sixth Respondent is the **COUNCIL OF THE CITY OF JOHANNESBURG**. I have been advised that the Council is properly represented by the Speaker, and should not be cited separately. However, in order to avoid any allegation of non-joinder, the Council has been cited separately. It will be served care of the Speaker.

### **III RELEVANT FACTS**

21. I deal with the relevant factual background under the following headings:

21.1. The lead up to the motion of no confidence;

21.2. Calling the meeting and the Programming Committee;

21.3. The urgent litigation; and

21.4. The Council meeting.



### THE LEAD UP TO THE MOTION OF NO CONFIDENCE

22. The current situation is a result of political re-alignments within the Council. Much of this has been reported in the media. I do not wish to delve into that political debate in detail. The following facts suffice for determining this application.
23. After the 2021 election, the DA entered into a coalition with the following parties to form a government – Action SA; Patriotic Alliance; Inkatha Freedom Party; Vryheidsfront Plus; African Christian Democratic Party; Congress of the People; African Transformation Movement and United Independent Movement; I attach an unsigned copy marked **MP1**.
24. Cllr Makhubele is a member of COPE and was part of the coalition. As part of the coalition agreement, she was appointed as the Chair of Chairs in the Council.
25. However, she decided to break the coalition agreement, by voting on 31 August 2022 to support a motion of no confidence in the Speaker of Council – the DA's Cllr Vasco Da Gama. Five other councillors who are members of the coalition government also supported the motion of no confidence against Cllr Da Gama which passed by 136 votes to 132.
26. When Cllr Da Gama was removed as Speaker, as the Chair of Chairs, Cllr Makhubele would act as Speaker in a Council meeting to conclude the Council meeting. She was not, however, the Acting Speaker and could not herself call meetings of Council.



27. Cllr Makhubele had attempted to call an extraordinary meeting on 13 September 2022 where Cllr Makhubele would seek to be elected as speaker, and the motion of no confidence in me would be placed on the agenda. However, the City approached the Johannesburg High Court to set aside her decision. On 12 September 2022 the Honourable Justice Malindi granted an order (**MP2**) setting aside Cllr Makhubele's decision to call the meeting.
28. However, there was an ordinary Council meeting scheduled for 28 September 2022 where a new Speaker would need to be elected.
29. Around the same time that Ms Makhubele was seeking to undermine the coalition so she could occupy the Speaker's chair, other members of the governing coalition sought to amend the coalition agreement. The agreement specifies which party will fill the various roles within the Council, including the Speaker. The agreement provided that the DA would fill the Speaker position. It had been filled by Cllr Da Gama. Some parties to the coalition believed a member of a different party should be allowed to fill the Speaker position.
30. I do not wish to enter into the rights or wrongs of this request to amend the coalition agreement. The DA's position is that it undermines the long term stability of coalition governments to amend the agreements in response to threats by other parties to vote against a coalition unless they obtain better terms. This simply incentivises parties to demand better terms by threatening to vote against the coalition. Coalitions cannot function if the agreements are always subject to change.



31. While the DA was not willing to amend the coalition agreement, it did change its candidate for Speaker. At the ordinary Council meeting of the DA nominated Cllr Alex Christians, and the ANC nominated Cllr Makhubele. Cllr Makhubele was elected as Speaker by 141 votes to 129. After the meeting, she publicly enjoined all Councillors to enjoy the pending recess (1 to 10 October), and indicated that she would be calling an extraordinary meeting of Council after the recess.
32. The final part of the background to the current dispute is the motions of no confidence in me. There were two motions of no confidence that were sent to the secretary of the Council. One was sent on 17 August 2022 (**MP3**), and the other on 13 September 2022 (**MP4**). I was not given ordinary notice of these motions, but became aware of them through colleagues and the media.
33. Neither of these motions had been moved in Council because the Programming Committee did not select them for consideration. With regard to the motion of 17 August 2022, the Programming Committee decided at its August 2022 meeting that the motion may be inadmissible because it concerned matters that were before a court of law. It therefore sought additional legal advice. The 13 September 2022 motion was simply not selected for the agenda of the ordinary 28 September 2022 meeting.
34. I do not wish to enter into the merits of the motions against me. But I do note that I dispute the factual accuracy of several claims in those motions. If the matter had been properly debated in the Council, I or other members of the DA



would have explained why the supposed grounds for losing confidence in me are without merit. The conduct of the Speaker denied us that opportunity.

#### **CALLING THE MEETING AND THE PROGRAMMING COMMITTEE**

35. The Speaker has the power to call meetings of the Council, including extraordinary meetings. But she does not set the agenda of those meetings – the Programming Committee does.
36. The Programming Committee is a Standing Committee of the City Council established under s 79 of the Structures Act. Its task is to oversee and regulate the programme of the Council agenda. Two of the powers that the Council has delegated to the Programming Committee are “*The placing of items on the Council agenda*”, and “*Planning the scheduling of meetings of Committees and Council.*” I attach a copy of the Programming Committee’s terms of reference marked **MP5**.
37. In addition, the Council’s Standing Rules and Orders, 2016 (**the Rules**, attached as **MP6** state:
- 37.1. “*The Programming Committee, must determine all business of the Council in accordance with these Rules*” (rule 62(1));
- 37.2. “*Except when the Rules permit otherwise or when the Speaker has given her/his consent, each motion must be considered by the Programming Committee for admission onto Council agenda*” (rule 94(3));

- 37.3. *“Unless the Rules provide otherwise, a motion must be selected by the Programming Committee before it is considered by the Council” (rule 95(1)); and*
- 37.4. *“The Programming Committee must consider the selection of the motion for consideration by the Council at its first meeting after the motion was submitted to the Secretary to Council” (rule 95(2)).*
38. In short, the general rule is that a motion can only get on the Council’s agenda with the approval of the Programming Committee. This is also the practice of the Council.
39. The City’s Rules also provide that: “ ‘Quorum’ means a total of 50% plus one of Councillors elected, unless otherwise stipulated in the Rules”. Although the Rules do not specifically deal with the quorum for a committee, the proper interpretation of the Rules, and the practice of the Council, has been that a quorum for any committee – including the Programming Committee – is 50% plus one of the councillors appointed to that committee.
40. The Programming Committee is chaired by the Speaker and currently consists of thirteen additional councillors, for a total of fourteen seats. I attach an attendance register for the Committee’s meeting of 29 September 2022, which reflects the current composition of the Committee (**MP7**). Two of the seats are currently vacant:

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- 40.1. The Chair of Chairs is a member of the Committee. That position was held by Cllr Makhubele, who is now the Speaker. A new Chair of Chairs has not been elected.
- 40.2. Cllr Sithole – a member of the African Christian Democratic Party – was removed as a councillor by his political party and his seat on the Committee has not yet been filled.
41. The Programming Committee should have 14 members. At the time, in fact had 12 members. Accordingly, to be quorate, the Programming Committee required either eight councillors to be present (calculated on total members), or seven councillors to be present (calculated on sitting members).
42. As Chairperson, the Speaker can call meetings of the Programming Committee. It generally meets regularly, but the Applicants accept that the Speaker can call an urgent, extraordinary meeting if necessary. The Speaker is ordinarily required to provide three days' notice. But as with any meeting, the urgency must be justified, and the notice of the meeting must be reasonable in the circumstances.
43. Contrary to her indication the previous day that she would only call a Council meeting after the recess, at 13:09 on 29 September 2022, Cllr Makhubele purported to give notice of an extraordinary meeting of the Programming Committee to sit at 16:00 that day. A copy of the notice is attached marked **MP8**. I also attach a screenshot of a WhatsApp message sent at 13:09 (**MP9**). The actual link to meeting was only sent at 13.35.



44. An Outlook calendar invite with the link to meeting appears to have been sent to other councillors at 13:33 or 15:28. The DA councillors only received that email at 16:58 (**MP9A**). Cllr Knott only received an email about the meeting at 16:03 (**MP9B**). She responded pointing out the absurdity of notifying members of a meeting after it had begun (**MP9C**). Plainly there was no serious attempt to ensure that the DA members had proper notice of the meeting.
45. As the agenda for the meeting shows, the purpose of the meeting was to determine the agenda of the extraordinary Council meeting the Speaker planned to call for the next day. That meeting had not yet been called when the notice of the Programming Committee was sent. Ms Mokoena only sent the notice calling the 30 September 2022 Council meeting at 13:25 (**MP10**). That notice did not state the business of the meeting, because the Programming Committee had not yet met.
46. I note the absurdity of this situation. A meeting had been called, plainly for the sole purpose of debating a motion of no confidence in me. Yet the Programming Committee had not yet met to decide whether that motion should be placed on the Council's agenda for the meeting. If it had been quorate and decided not to place the motion on the agenda, presumably the Council meeting would have been cancelled. This again demonstrates the undue haste with which Cllr Makhubele acted.
47. I was not present at the Programming Committee meeting at 16:00 on 29 September 2022. Nor were any of the DA councillors who are on the Programming Committee – Cllrs Meyers, Niemand, Sifumba and Knott. While



they received notice of the meeting, they refused to participate because they believed the meeting had been called for an improper purpose.

48. However, the Secretary of Council and Cllr Ngobeni of ActionSA were present. Both have deposed to supporting affidavits which show the following:

48.1. Cllr Ngobeni of ActionSA attended the meeting at 16:00. Only five other councillors were present. He raised the issue of a lack of quorum. Cllr Makhubele said the meeting should just deal with the motion of no confidence against me. But the meeting did not start as they waited for others to join. Cllr Ngobeni eventually left the meeting at approximately 17:00 before any business commenced. At that time, Cllr Dlanjwa arrived. To the best of Cllr Ngobeni's knowledge, there were only ever six members present at the meeting.

48.2. The Acting Secretary to Council – Madimetja Molekwa – was present during the entire Programming Committee meeting. He confirms that the meeting was never quorate. There were only six councillors present in the meeting when the "business" of the meeting was conducted.

49. Cllr Makhubele filed an unsigned answering affidavit in the Urgent Application in which she claims that the Programming Committee was quorate (**MP11**). The affidavit claims the Committee had a quorum and attaches an attendance register for the Programming Committee meeting with seven signatures, including Cllr Ngobeni's. But Cllr Ngobeni was not present when the business of the meeting was conducted. He has said so under oath, supported by Council's Secretary.



50. Cllr Tyrell Meyers, the Whip of Council, sent a formal request to the Speaker for the minutes of the Programming Committee's meeting on 2 October 2022 **MP12**. Minutes should be available 72 hours after the meeting occurs. At the time I deposed to this affidavit, he had not received a response.
51. Ultimately, the inquorate Programming Committee purported to decide that the motion of no confidence in me submitted on 17 August 2022 (and not the motion of 13 September 2022) should be tabled at the meeting of 30 September 2022. As no decision had been taken when Cllr Ngobeneni left at 17:00, this decision must have been taken sometime after 17:00.
52. At 18:05 on 29 September 2022 – presumably after the inquorate Programming Committee had taken its “decision” – another email was sent to councillors with an “amended notice” of the extraordinary Council meeting for the next day **MP13**. The notice simply attached the 17 August 2022 motion of no confidence in me.
53. Therefore, while councillors knew from 13:25 that there would be a Council meeting the next day, they (and I) only discovered the purpose of that meeting at 18:05 – 16 hours before the meeting would begin. As I explain below, this was patently not a reasonable period.
54. The notice does not state that there would also be an election of a new executive mayor – although that is contained as the second part of the motion of no confidence. Ordinarily, after a motion of no confidence is passed in a Mayor or a Speaker, a new meeting is called for the election of the new incumbent. This is necessary to allow parties to consider who to nominate, to

secure the services of the Electoral Commission to supervise the election, and so proper notice can be given to all councillors. None of that was done here.

### **THE URGENT LITIGATION**

55. When I learned of the above facts, I immediately acted in my capacity as Executive Mayor to prevent the 30 September 2022 Council meeting from proceeding. I instructed the City's attorneys to launch an urgent application to set aside the decisions of the Programming Committee, and the two notices calling the Council Meeting. I also sought an order directing that the Council Meeting should not take place. I set the matter down for 10:00 on 30 September 2022. I attach a copy of the founding papers, excluding annexures, marked **MP14**.
56. The application was set down at the same time as the Council meeting was meant to begin. I was advised that the High Court ordinarily convenes at 10:00. I also believed that the Speaker, and the other Councillors, would not proceed with a meeting while there was a case pending in court to determine whether the meeting could lawfully proceed.
57. That faith was misplaced. As I detail below, the Council meeting began shortly after 10:00. Notwithstanding repeated attempts by the DA to ask the Speaker to delay the meeting, and despite being aware of the pending court proceedings, Cllr Makhubele insisted on proceeding with the motion of no confidence.



58. My attorneys sought to have the matter heard at 10:00. However, the urgent Registrar only sent the link for the hearing at 10:30. When my legal team joined the meeting, the Honourable Justice Wepener was dealing with another urgent matter. At 11:00, the judge adjourned to finalise his ruling in the first matter. By the time he was able to hear our matter at approximately 11:30, the motion of no confidence had already been passed. The Executive Mayor's counsel informed the Court of this, and the matter was removed from the roll, with costs to stand over.
59. I stress that this application would not have been necessary if Cllr Makhubele had simply adjourned the meeting for a few hours to allow the Court to rule on the legality of the meeting. Her intransigent conduct necessitates this application, and will cause immense confusion and disruption in the City of Johannesburg.
60. I should mention that the Applicant in the Urgent Application was "The Executive Mayor of the City of Johannesburg". When the application was launched, I was the Executive Mayor and I instructed attorneys in that capacity, through the City. I have been unlawfully removed, and so I am no longer the Executive Mayor. I cannot instruct the attorneys in the Urgent Application to withdraw it, or proceed with it. That is why this new application has been brought by me and the DA.



**THE COUNCIL MEETING**

61. I was not present at the 30 September 2022 Council meeting. However, it was attended by multiple DA councillors, including Cllr Gert Niemand, the Caucus Chairperson. He will depose to a confirmatory affidavit confirming my account of the meeting set out below.
62. A full video of the meeting is also available at: <https://fb.watch/fU7Y5tRBOP/> on the City's official Facebook page. I ask that this video be treated as an annexure to this affidavit. The accuracy of the video is confirmed by Cllr Niemand.
63. The meeting began after 10. The DA caucus joined the meeting at approximately 10:20. The DA had been advised that the meeting was unlawful. The purpose of attending was not to participate in an unlawful meeting, but to indicate to the Speaker that the meeting was unlawful and should not proceed. For that reason, the DA councillors did not sign the attendance register. Signing it would have given legitimacy to a patently unlawful meeting. However, virtually all the DA councillors were present in the Council chamber.
64. While the Speaker was dealing with apologies and leave of absence, DA Cllr Alex Christians attempted to explain why the DA councillors had not signed the attendance register. However, the Speaker (Cllr Makhubele) prevented Cllr Christians from addressing the meeting because it did not concern leaves of absence and apologies.
65. The Speaker then recognised Cllr Masuku on a point of order. Cllr Masuku stated that only councillors who had signed the attendance register should be permitted to speak. Cllr Novela raised the same point, saying that because the



DA councillors had not signed the attendance register, the Speaker should not acknowledge them.

66. The Speaker made no clear ruling, but declared the issue of absences and apologies closed. Cllr Belinda Echeozonjoku of the DA asked the Speaker to allow Councillors to raise points of order and not to shut them down. The Speaker again ignored her. Instead, the Speaker told her to sign the register and instructed the Secretary to move to the next item on the agenda. Cllr Echeozinjoku objected that the Speaker had noted her earlier.

67. I should pause to discuss the attendance register:

67.1. I accept that rule 56 of the Council's Rules requires every councillor to sign the register. The purpose is to keep a record of who is present, and who is not present.

67.2. But signing the register is not a condition to exercise one's rights as a councillor. A councillor has all those rights – including the right to raise points of order and to speak to a motion – because they have been elected as a councillor, not because they sign the register.

67.3. That is why, when the Council held virtual or hybrid meetings, we did not sign a physical attendance register, and that did not affect any councillor's right to speak in the Council.

68. Cllr Christians raised a point of order pointing the illegal meeting out to the Speaker. While the Speaker allowed Cllr Christians to speak, she simply

- ignored his point of order without making a ruling and said “we are going to proceed to the motions now”. She then said “I will make a ruling at a later stage”.
69. Instead, she instructed the proposer of the motion of no confidence to read it, which Cllr Arnolds began to do.
70. Cllr Echeozinjoku then raised a point of order asking the Speaker to make a ruling on Cllr Christian’s point. The Speaker said “Thank you MMC, I’ve noted your point of order. Councillor Arnolds can you please proceed.”
71. Cllr Niemand – the DA’s Caucus chairperson – then rose to request a caucus break, so the DA can decide what to do. He asked for “a formal, legal caucus break”, for one hour. The Speaker ignored him, and did not grant a caucus break, saying “you want a caucus break after the tabling of the motion? Please proceed to table the motion Councillor Arnolds.”
72. I pause to note that rule 30(9) of the Rules permits the Party Whip or Party Leader to request the Presiding Officer “*adjourn the meeting of Council to allow for caucus*”. This is known as a “caucus break”. It is the practice of the Council that a caucus may request a caucus break and these breaks are granted as a matter of course. That is why the request can only be made by the There are no rules about when they may or may not be granted. The obvious purpose is to allow members of a party or coalition to discuss how to address an issue before the Council.

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73. At this point, the Chamber was chaotic. Cllr Niemand continued to insist that the DA wanted a caucus break “immediately”. The Speaker continued to ignore him and other DA councillors while Cllr Arnolds read the motion.
74. The Speaker then asked if the motion was supported. Multiple hands were raised.
75. She then said – in response to continued objections from DA councillors that: “After the tabling of the motion, we will go on a caucus break.” Cllr Niemand again insisted on a caucus break before the Speaker put the motion to the Council. The Speaker ignored him.
76. The Speaker then asked “all in favour of the motion, please raise your hands”. The Speaker then said: “Is the motion agreed to before we second it?” Again, multiple hands were raised. Cllr Niemand again said: “You are flouting the rules, I want my caucus break.” The Speaker ignored him.
77. The Speaker then said: “The motion is supported without opposition, so therefore the motion is carried.” Cllr Niemand continued to demand his caucus break, pointing out that he had asked for the break before the motion was tabled. The Speaker ignored him.
78. The Speaker then again asked those in favour of the motion to raise their hands so they could be counted – “I’m going to allow legal to count.” The Speaker did not allow or invite any debate on the motion before counting who supported it.

79. Cllr Niemand continued to ask for a caucus break. The Speaker continued to ignore him. Cllr Nkomo again informed the Speaker that the DA had requested a caucus break before the motion, and that the meeting was proceeding illegally. The Speaker ignored him.
80. After the hands supporting the motion had been counted, the Speaker asked those opposing the motion to raise their hands – “but only those who signed the attendance register”. She then asked if there were any abstentions.
81. The Speaker recognised Cllr Mabaso of the IFP who stated that they were concerned by the grave disorder in the chamber, and that they intended to abstain. The Speaker stated “we are voting”, and prevented him from explaining his party’s position, and insisted that he simply state his position. He explained that the IFP was not participating and was abstaining.
82. The Speaker then said: “In the absence of Nos, and I have noted MMC Mabaso’s abstention, are there any other?” She then recognised Cllr de Lange of the VF+. Before allowing him to speak, she asked if he had signed the register. She then said: “You did not sign the register. If you want to indicate your position, you can, but you did not sign the register.” Cllr De Lange stated that the meeting was illegal because the Programming Committee was inquorate and that the VF+ would not support an illegal motion at an illegal meeting. The Speaker asked him to sit down because he did not sign the register, and was not indicating a position.
83. The Speaker then allowed Cllr Bongani Nkomo of the DA to state his position. Cllr Nkomo again asked for a chance to caucus. He again informed the Speaker



that the meeting was illegal, and that the Speaker was acting unlawfully by not following the ordinary processes of the Council.

84. The Speaker ignored him and said she would announce the results and then allow a caucus break for 30 minutes. She then announced that the motion had passed with 139 votes, and no votes against.
85. The Speaker, still ignoring the DA's councillors' protests, asked the Acting Secretary to move to the next item on the agenda – the election of a new Executive Mayor. The Acting Secretary called for the election.
86. The DA again lodged its dissatisfaction. The Speaker then told the DA they could have a caucus break while officials from the Electoral Commission prepared for the election of the new Executive Mayor. This occurred at approximately 11:13, whereafter the DA left the meeting.
87. The DA did not participate in the election of a new Executive Mayor, as the vote to remove me was unlawful. I understand that Cllr Morero was (unlawfully) elected.

#### **IV THE DECISIONS ARE UNLAWFUL**

88. The Applicants attack four decisions:

88.1. The Speaker's decision to call the 30 September 2022 meeting;

- 88.2. The Programming Committee's decision to place the motion of no confidence on the agenda for that meeting;
- 88.3. The decision of the Council to adopt the motion of no confidence; and
- 88.4. The decision of the Council to elect Cllr Morero as Executive Mayor.
89. Before I explain why each decision is unlawful, I mention that I have been advised that these decisions do not constitute administrative action as defined in the Promotion of Administrative Justice Act 3 of 2000. But they do constitute the exercise of public power constrained by the principle of legality. This application is not, primarily, brought in terms of PAJA. However, if I have been mistakenly advised, and these decisions do constitute "administrative action", then they are reviewable for the same reasons under PAJA.

#### **THE DECISION TO CALL THE MEETING**

90. There are two reasons this decision is unlawful:
- 90.1. It did not provide reasonable notice; and
- 90.2. It was taken for an ulterior purpose.

#### **No Reasonable Notice**

91. Section 58(1) of the Local Government: Municipal Structures Act 117 of 1998 (**Structures Act**) deals with the removal of an executive mayor. It reads: "A



*municipal council, by resolution may remove its executive mayor or deputy executive mayor from office. Prior notice of an intention to move a motion for the removal of the executive mayor or deputy executive mayor must be given.*

This notice is vital to allow the Executive Mayor, and those for or against the motion, to prepare to debate it, and to ensure that they can be present at the meeting. I am advised that, to comply with s 58(1), the notice must be reasonable.

92. I accept that it is, generally, for the Speaker to determine when a municipal council meets. Section 29(1) of the Structures Act reads: "*The speaker of a municipal council decides when and where the council meets*", provided it meets at least quarterly.

93. The City's Rules distinguish between an ordinary meeting and an extraordinary meeting.

94. Ordinary meetings:

94.1. Occur according to the annual year planner (rule 15).

94.2. For an ordinary meeting, the Rules give strict rules about notice. Rule 55(1) provides:

*Notice of the time and place of every ordinary meeting of the Council must be served on every Councillor either personally and or electronically or by leaving the notice at his /her usual place of residence or place of business, at least 3 calendar days before such meeting takes place.*

- 94.3. The notice must be signed by the Presiding Officer (rule 55(2)) and "*must set out the business to be considered at a meeting for which such notice has been given and where practical all agenda items to be considered at the meeting*" (rule 55(4)).
95. Rule 16 deals with extraordinary meetings:
- (1) *The Speaker may call an extraordinary meeting of the Council to conduct business outside the scheduled meetings.*
  - (2) *The Speaker must inform all Councillors of her/his decision to call an extraordinary meeting.*
96. The Rules do not specify what notice must be given for extraordinary meetings. However, I submit that – at least when it concerns an extraordinary meeting to debate a motion of no confidence – the notice must:
- 96.1. Afford all councillors – including the Executive Mayor – a reasonable opportunity to prepare for the meeting, and to ensure they are able to attend.
  - 96.2. If it is less than the three days required for ordinary meetings, then the departure must be justified by the urgency of debating the motion.
97. The notice in this case met neither of these requirements:
- 97.1. Councillors were only given 20 hours' notice that there would be a Council meeting (with no indication of its purpose), and at best 16 hours' notice that a motion of no confidence would be debated. Even the 18:05



notice did not specifically draw councillors' attention to the purpose of the meeting. That is objectively unreasonable.

- 97.2. The urgency was entirely unjustified. The motion of no confidence in me that was scheduled had been pending against me for more than two months. Nothing had happened to suddenly make it so urgent less than a day's notice should be given to move the motion. While I accept that all motions of no confidence must be addressed with reasonable speed, the extreme urgency in this matter was entirely unjustified.
98. Accordingly, the decision to call the meeting was unlawful because it violated s 58(1) of the Structures Act.

### **Ulterior Purpose**

99. The decision is also unlawful because it was taken for an ulterior purpose. The only possible explanation for scheduling the meeting on 30 September 2022 was for the Speaker to achieve some political advantage for herself and her political allies. I assume that there was a concern that, if they delayed the vote on the motion of no confidence, they may not have sufficient votes for it to pass.
100. Whatever Cllr Makhubele's true motivation may have been, it could not have been the orderly and fair running of the council, or the governance of the Municipality. No harm would have befallen the Municipality or the Council if the ordinary three days' notice was given, and the meeting was called for the following week.



101. I am advised that it is contrary to the principle of legality to act for an ulterior purpose not permitted by an empowering provision. That is what Cllr Makhubele has done. Her decision must be set aside for that reason.

#### **THE DECISION OF THE PROGRAMMING COMMITTEE**

102. The decision of the Programming Committee is unlawful because it was inquorate, and because it acted for an ulterior purpose.

#### **Inquorate**

103. The motion of no confidence could only be on the agenda for the meeting of 30 September 2022 if it was placed there by the Programming Committee. The Programming Committee could only take a decision to place it on the agenda if it was quorate.
104. A quorum for the Programming Committee must be a majority of its members. While neither the City Rules nor the Structures Act specifically determines the quorum for municipal committees, I am advised that in the absence of any special rule, a majority (50% + 1) must be present.
105. It is not necessary to decide whether that must be a majority of all positions on the Committee including vacant positions, or only those that were filled at the time. Either way, the Programming Committee was inquorate on 29 September 2022.



106. As explained earlier, the Programming Committee was not quorate:

106.1. It had fourteen members, and therefore required at least eight members to be present.

106.2. Even if one discounts Cllrs Da Gama and Sithole, there were 12 “active” members. The Committee therefore needed seven councillors to make quorum.

106.3. Only six members were present when the business of the Committee was conducted.

107. Whichever way the quorum is determined, the Programming Committee was inquorate. It therefore could not take any legal decision. Its decision to place the motion of no confidence on the agenda of the meeting of 30 September 2022 was unlawful.

### **Ulterior Purpose**

108. The Programming Committee also acted for an ulterior purpose. The only reason it would seek to place the motion of no confidence on the agenda so urgently is a political one. But the task of the Programming Committee is not to serve any party's political ends, but to fairly manage the time and business of the Council.



109. If it acts to advantage one political party, and not in the interests of the Council, it acts unlawfully. The only reasonable inference for the Programming Committee's decision is that it acted for an ulterior, impermissible purpose.

#### **THE CONDUCT OF THE COUNCIL MEETING**

110. The Council Meeting was unlawful because:

110.1. The Speaker did not permit the DA councillors present at the meeting to speak;

110.2. The Speaker denied the DA a caucus break;

110.3. The motion of no confidence was not debated; and

110.4. The only explanation for the haste with which the meeting was conducted was to pre-empt the Urgent Application.

#### **Refusal to Allow DA Councillors to Speak**

111. Councillors have a right to participate in, and speak freely at, the proceedings of the Council. This flows from the Constitution, the Structures Act, and the Council's Rules:

112. Section 160(8) of the Constitution reads:



*Members of a Municipal Council are entitled to participate in its proceedings and those of its committees in a manner that -*

- (a) allows parties and interests reflected within the Council to be fairly represented;*
- (b) is consistent with democracy; and*
- (c) may be regulated by national legislation.*

113. Section 28(1)(a) of the Structures Act reads: “*councillors have freedom of speech in a municipal council and in its committees, subject to the relevant council's rules and orders as envisaged in section 160(6) of the Constitution*”.

114. The Council's Rules also enshrine the right to speak:

114.1. Rule 1(2)(c) and (d) read:

- (2) The Rules are intended to enable the Council to fulfill its constitutional responsibilities.*

*This means that they must -*

*...*

- (c) facilitate debate and discussions;*
- (d) ensure that all parties and Councillors have an opportunity to participate in the work of the Council in line with the constitutional dispensation;*

114.2. Rule 18(4) provides that the Speaker “*must protect freedom of speech and debate in the Council and its Committees*”.

114.3. Rule 66 reads: "*The Presiding Officer should ensure that Councillors are allowed to speak and debate freely in the Council subject to these Rules.*"

114.4. Rule 72(1) permits any councillor to raise a point of order, and requires the Presiding Officer to recognize the councillor, and rule on the point of order.

115. This right is not subject to signing the attendance register. The DA councillors who attempted to participate, and to raise points of order, and request adjournments were all present in the Council Chamber. Their refusal to sign the attendance register did not affect their right to participate in the meeting.

116. The Speaker wrongly refused to allow them to speak solely because they had not signed the attendance register. This was unlawful. As a result, the meeting itself was not lawfully conducted.

117. The Speaker's conduct was particularly bizarre because she would recognise the DA Councillors present at the meeting, but then simply ignore what they said, and refuse to rule on the points of order, because they had not signed the attendance register.

118. That is contrary to the Constitution, the Structures Act, and the Council's own rules. For that reason alone, the motion of no confidence passed at the unlawful meeting must be set aside.



**No Debate**

119. I am advised that it is a requirement for a valid motion of no confidence that the motion is debated before a vote is taken.
120. There was no debate about the motion of no confidence in me. This is what happened:
- 120.1. The Speaker allowed the sponsor to read the motion.
- 120.2. She then asked if it was supported. She declared that the motion had been carried, before backtracking – seemingly based on advice that she had received – and asked for a formal counting of votes.
- 120.3. After counting the yes votes, she recorded no opposition and asked for abstentions. She allowed the IFP, the VF+ and the DA to state their position, but not to debate the motion.
121. At no point did the Speaker provide an opportunity for any councillor to speak for or against the motion. She moved directly from reading the motion, to voting.
122. That is inconsistent with the principle of legality, and our deliberative and participatory democracy.
123. Those supporting the motion should have spoken in favour of it to try and convince their fellow councillors to support it. Those against it should have been afforded an opportunity to sway their colleagues the other way. If the motion had not been scheduled with such haste, the Programming Committee would also have scheduled times for speakers from each party to not only state their



position, but to explain why they were going to support or oppose the motion. None of that happened.

124. A motion of no confidence is not a mere exercise of political power. It requires each individual councillor to consider whether or not they have confidence in the Executive Mayor. They can only reasonably make that judgment for themselves once they have heard all sides.
125. The Speaker's failure to ensure a debate preceded voting on the motion renders the conduct of the meeting unconstitutional and unlawful. It was contrary to the requirements for deliberation and debate in the Council. It was also procedurally irrational. It was impossible to take a rational decision on whether or not to support the motion without affording those for or against the motion an opportunity to speak.

### **No Caucus Break**

126. The DA repeatedly asked for a caucus break. The first request was made before Cllr Arnolds had finished reading the motion.
127. The DA was entitled under rule 30(9) and the practice of the Council to request a caucus break. The Speaker refused to grant it supposedly because the request was made after the motion had been tabled. But:
- 127.1. The request was made before Cllr Arnold tabled the motion. She had begun to speak, and the Speaker asked her to stop. Cllr Niemand then



requested the caucus break. Cllr Arnold then began again to read the motion.

- 127.2. That is no reason to refuse a caucus break. There is no rule, nor any reason, why a break cannot be granted after a motion is tabled but before voting. Indeed, a caucus may often need to consider its position after a matter is debated, but before a vote.
128. There was no basis to refuse to allow the caucus break other than to seek to ensure the motion was voted on before the Court could interdict the meeting.
129. The Speaker's motivation is revealed by the fact that she granted a caucus break as soon as the motion had been carried. This clearly shows that the only reason to refuse a caucus break was to prevent any delay in the vote on the motion of no confidence.
130. The failure to grant the caucus break was unlawful, and renders the conduct of the meeting unlawful.

### **Ulterior Purpose**

131. Again, the only reasons the Speaker could have sought to prevent the DA from speaking, to prevent to debate, and to deny a caucus break are ones that are inconsistent with her office and her obligations. It was either to prevent debate for fear that reasons would be advanced not to support the motion of no confidence, or to ensure it was voted on before this Court could decide the Urgent Application.



132. But there is no legitimate justification for her conduct. Only impermissible, ulterior purposes.

## **V URGENCY**

133. This application is manifestly urgent.
134. The unlawful conduct of the Speaker and the Programming Committee resulted in my unlawful removal as Executive Mayor. The City is currently being governed by Cllr Morero who has been unlawfully elected. It is plainly urgent to ensure that the Executive Mayor of the City is lawfully elected. I am also advised that rectifying the unlawful exercise of public power is inherently urgent.
135. In this case, the Applicants will not be afforded substantial redress at a hearing in due course. I am lawfully entitled to be the Executive Mayor today. I am lawfully entitled to be the Executive Mayor every day until my term ends or I am lawfully removed at a lawfully convened meeting. My rights, the DA's rights, and the citizens of Johannesburg's rights are violated every day that I am unlawfully excluded from my office.
136. A review in due course – which I am advised will take months to resolve – cannot remedy the wrong done in the interim.
137. Moreover, in the interim, the City of Johannesburg will be governed by an unlawfully elected Executive Mayor. I am currently unable to exercise the powers and duties of the Executive Mayor because I was unlawfully removed.



That is serious, ongoing constitutional harm that must be remedied as soon as possible.

138. If this application is successful, the decisions taken by Cllr Morero as Mayor will either need to be undone, or will remain in place. Either way, it will cause immense harm to the Applicants, the City and the citizens:

138.1. If they are undone, it will cause immense disruption in the City, hampering its ability to deliver services to its residents. The longer the delay, the more disruption will be caused.

138.2. If they are allowed to remain in place to avoid disruption, it will undermine the rule of law and democracy because they will have been taken by an illegal Executive Mayor. The longer the delay, the greater the risk that the decisions will have to be kept in place because of the extent of disruption setting them aside will cause.

139. This application has been brought with the appropriate level of urgency. It will be launched before 12:00 on Monday 3 October 2022, and set down for hearing in the week of 10 October 2022. The Council meeting occurred on Friday 30 September 2022.

140. This application was prepared over the weekend. I emphasise that the Applicants could not use the attorneys or counsel that had prepared the Urgent Application on behalf of the Executive Mayor, which is now a respondent. New attorneys and new counsel had to be engaged.



141. The Respondents will have two full days to file answering papers, and the Applicants only one day to reply. The Applicants' attorneys also provided the Respondents with prior notice of this application. On Sunday 2 October 2022, our attorneys wrote a letter to the Speaker, the Executive Mayor and the City Manager, informing them that this application would be launched, the relief that would be sought, and the date by which they would be required to answer **MP15**. That is a reasonable opportunity to respond, and the Respondents will suffer no prejudice.

## VI CONCLUSION AND COSTS

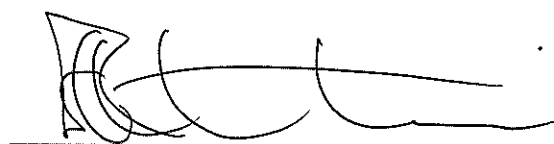
142. There are two final issues to address.
143. First, the Applicants ask that all the decisions that the Fourth Respondent purports to take while he unlawfully occupies the office of Executive Mayor should be reviewed and set aside. This should only be for just over a week.
144. I have been advised this is the default result of setting aside Cllr Morero's appointment as Executive Mayor. It is also necessary to preserve the integrity of the office and should minimise disruption. If this application is successful, I will again be the Executive Mayor. I should not return to office to be faced with decisions taken by an unlawfully appointed Mayor. It is in the interests of justice to set aside all those decisions taken by an unlawful incumbent.
145. Second, my removal as Executive Mayor was a serious abuse of power. At every step, Cllr Makhubele flouted the Rules and the law to achieve her political



ends through whatever means. She illegally called a meeting. She chaired the Programming Committee that illegally placed the motion on the Council's agenda. She chaired the Council meeting and repeatedly acted illegally. She refused to delay the vote which would have allowed this Court to determine the legality of the meeting before the motion was determined. Throughout, she was motivated not by her duties as Speaker, but her political goals.

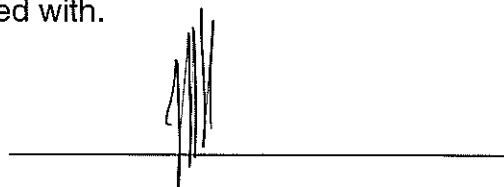
146. The City's ratepayers should not have to pay the legal costs of her unlawful behaviour. She should bear the costs of this application in her personal capacity and on an attorney and client scale.

147. I pray for the relief in the notice of motion.



**MPHO PHALATSE**

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me at Johannesburg on this the 3rd day of October 2022, the regulations contained in Government Notice No. 1258 of 21 July 1972, as amended by Government Notice No. 1648 of 17 August 1977, as amended having been complied with.



**COMMISSIONER OF OATHS**

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**LOCAL GOVERNMENT COALITION AGREEMENT  
22 FEBRUARY 2022**

**WHEREAS** the parties to this agreement, listed in Annexure A hereto, have all contested in the Local Government Municipal Elections, held on 1 November 2021.

**AND WHEREAS** the parties won representation in the **CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY** enabling a multi-party coalition government (the Coalition) to be formed.

**AND WHEREAS** the parties, inclusive of all their public representatives, share certain values, principles, and policy objectives and wish to form a stable and effective government in the **CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY** with the purpose of realising pre-identified priorities in the term of office to which their candidates were elected, whilst maintaining their own independent political identities.

**AND WHEREAS** the parties wish to record and publicise the terms of the coalition agreement for the purpose of transparency, certainty and guidance to all public representatives that are members of the parties serving in the municipality as councillors (Coalition members) as well as to the residents in the municipality.

**NOW WHEREFORE** the parties agree as follows:

**1. COMMITMENTS**

The parties agree that the following will be the objectives of the coalition governments that will be formed because of this agreement.

- 1.1 The coalition shall be called "the coalition government" or the "multi-party coalition" and no single party shall claim ownership of it. All official communication shall refer to the "coalition government" as the entity communicating on behalf of the government.
- 1.2 A programme of government will be prepared which will take into account the manifestos of coalition parties where reasonably practicable. The programme of government will be known as the "coalition manifesto" and shall be made public.
- 1.3 A culture of accountability, transparency and good governance will form the foundation of all work to be performed in the municipality.
- 1.4 All coalition members acknowledge the value of openness and will ensure the accessibility of information to residents of the municipality.



- 1.5 All coalition members shall be accessible and responsive to all residents of the municipality.
- 1.6 All coalition members shall endeavour to eliminate corruption and maladministration within the municipality, including a non-negotiable commitment to the rule of law and constitutionalism.
- 1.7 The separation of party and state will be strictly adhered to by all coalition members.
- 1.8 The coalition will be committed to correcting the injustices of the past and shall seek to ensure an inclusive economy and society through evidence-based developmental policies and practice.
- 1.9 All parties shall endeavour to expand opportunities for all, and oppose any forms of racial, gender or other quotas.
- 1.10 All parties shall uphold non-racialism.
- 1.11 All parties shall avoid the politics of patronage, nepotism, or self-enrichment, and ensure that fit and proper persons are elected or appointed to higher office in municipal government, including the executive, legislature or administration.
- 1.12 All coalition members shall ensure the municipality is driven by the pursuit of excellence, this includes diverse merit-based appointments and policymaking guided by evidence and the objectives set out in this agreement.
- 1.13 Parties to this coalition agreement will strive to reach decisions relating to the management and resolution of conflicts, by consensus. Where consensus cannot be reached, the matter will be escalated in terms of the provisions of this agreement.
- 1.14 No party to this agreement shall enter into any other coalition in the **CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY** which is inconsistent with this agreement.
- 1.15 Official government communication must advance the governance programme and agreed positions of the coalition government and not that of individual political parties.
- 1.16 No communication matter that could bring the coalition in disrepute should be released by any signatory party to this agreement, without having exhausted all internal processes outlined in section 6 of this agreement.

- 1.17 It is agreed that the coalition will hold joint media briefings at least once every three months to showcase the health of the coalition and the performance of the multi-party government.

## 2. OBJECTIVES

The parties to the agreement will work to:

- 2.1 ensure that every community has access to reliable, clean, running water, that is safe to drink and to prepare food; modernise water management and the detection of water leaks; and prevent untreated wastewater contaminating the environment, homes, streets, and sidewalks within the municipality.
- 2.2 ensure there is a hygienic environment to live and play delivered through effective waste collection and rubbish disposal to protect the environment and the health of residents; comply with environmental legislation; and ensure working landfill sites; and the implementation of recycling programmes.
- 2.3 give residents back their power by helping to reduce their vulnerability to ESKOM load shedding and eradicate ESKOM supply areas; and enhance access to reliable, affordable, and sustainable electricity; incentivise pre-paid electricity systems and private electricity generation.
- 2.4 reclaim public spaces currently taken over by lawlessness, litter, and neglect so that they may be places for all residents to enjoy once again.
- 2.5 invest in safe, reliable, and affordable public transport, and well-maintained roads; and work to eradicate irrational national taxes and tolls on roads affecting municipal areas.
- 2.6 develop a holistic infrastructure strategy which combines the imperatives of an increased spend on PPE maintenance, infrastructure renewal and measures to safeguard infrastructure from vandalism and theft.
- 2.7 be tough on crime and tougher on the causes of crime by investing in localised law enforcement and tackling the local conditions which give rise to crime in the first place.
- 2.8 focus first on getting the basics right as the foundation to bringing in investment and jobs to the local economy. Beyond that the parties to this agreement are committed to improving the business environment by making it easier to do business within the municipality.

- 2.9 collaborate for transparent sustainable housing by increasing the scale of housing delivered through private initiative, diversifying housing options, and ensuring more people own their homes and receive their valid title deeds.
- 2.10 adopt a holistic approach to keeping communities in good health by ensuring that all departments work together to minimise the risks which lead to poor health, to respond effectively to health emergencies, and to achieve overall positive health outcomes.
- 2.11 govern in the interests of the people by eliminating corruption, adopting best practices in good governance, and ensuring the resilience of communities through effective disaster risk management.
- 2.12 support devolution of power to the lowest effective level within the constitutional and legislative framework; and ensure the effective functioning of ward committees by providing adequate administrative support.
- 2.13 promote, where it is deemed appropriate by a competent feasibility study, the establishment of sub-Councils in Metropolitan local governments.
- 2.14 audit and review the municipality's organogram and staff complement, including a review as envisioned by Section 4(3)a of the Regulations of the Municipal Structures Act, including remuneration levels; ensure the appointment of fit-for-purpose officials and the review of salary scales before filling vacant posts, where this is indicated by the review; and implement consequence management procedures for the transgression of laws and regulations, or non-performance.
- 2.15 as per legislation municipal services should be run in a cost-effective manner, where possible we will avoid above-inflation increases in tariffs, rates and taxes, where unavoidable, this shall be adequately explained to the public.
- 2.16 promote multilingualism and protect and enhance the heritage landscape; and render services in the languages of the said municipality (in accordance with Section 6(3)b of the South African Constitution).
- 2.17 Be cognisant that illegal immigration and failures to document legal immigrants are issues that impact local governments and requires this coalition government to develop a holistic strategy to respond to these challenges. Any action in relation to illegal immigrants must adhere to the provisions of the South African Constitution, South African law, precepts of international law, the basic tenets of human compassion and decency, and avoid the promotion of xenophobia.

### 3. TERM OF OFFICE PRIORITIES

- 3.1 The parties are cognisant of the 5-year statutory term imposed on every municipal council by the Constitution of South Africa. Accordingly, an agreement must therefore be reached on shared projects and/or priorities in the relevant municipality that is achievable in this term.
- 3.2 As a general priority to every municipality where a coalition government is formed, the following are identified as default priorities:
  - 3.2.1 Good Governance;
  - 3.2.2 Financial sustainability;
  - 3.2.3 Water provision;
  - 3.2.4 Waste management;
  - 3.2.5 Sewerage management;
  - 3.2.6 Electricity provision;
  - 3.2.7 Infrastructure maintenance;
  - 3.2.8 Public and Recreational Spaces;
  - 3.2.9 Roads and Transport;
  - 3.2.10 Safety and Security;
  - 3.2.11 Job Creation and Investment;
  - 3.2.12 Sustainable Housing;
  - 3.2.13 Health;
  - 3.2.14 Environmental Protection;
  - 3.2.15 Devolution of Power;
  - 3.2.16 Public Participation.
- 3.3 The parties shall, by consulting with local councillors as well as all relevant stakeholders, identify the municipality's needs / pressing projects and priorities, in addition to the default priorities listed in paragraph 3.2 above that may be achievable within the term of office.
- 3.4 The parties shall prioritise the projects and take all steps necessary, from within the municipal council to further and realise the projects identified herein, that form part of the Programme of Governance.
- 3.5 A governance model, which outlines the political and administrative structure of the municipality, will be established by the joint caucus to effectively implement the programme of governance.
- 3.6 Where legally possible, parties who are part of the coalition government will form part of the interview process for the appointment of municipal managers and other senior managers that report directly to municipal managers.

## **4. CAUCUSES AND COMMITTEES**

### **4.1 PORTFOLIO CAUCUS (PC)**

Parties to this Coalition, through its Councillors, shall:

- 4.1.1 Establish Portfolio Caucuses for the purposes of coordinating subject specific decision making and coordinating reports to Council within a specific portfolio.
- 4.1.2 A PC will be set up for each MMC Portfolio and will consist of the MMC, the Section 79 Chairperson and coalition councillors serving in that committee.
- 4.1.3 The PC may include multi-party caucus councillors representing wards whose residents may be impacted by a particular matter.
- 4.1.4 The PC will meet prior to each Section 79 to be engaged by the MMC before matters proceed to the committee, the JC and Council with a view to enhancing decision making.

### **4.2 JOINT CAUCUS (JC)**

Parties to the Coalition, through its councillors, shall:

- 4.2.1 establish a JC for the purposes of ensuring a coordinated response to issues that will serve before the municipal council.
- 4.2.2 Elect a JC chairperson and deputy-chairperson (who shall not be from the same party as the chairperson).
- 4.2.3 adopt a set of joint caucus rules in terms of which the JC functions and takes decisions, which rules must be endorsed by the Management Committee of the Coalition.
- 4.2.4 subject to the reasonable provisions for dissent defined in this agreement, at all times adhere to and support decisions of the JC and not differ publicly from any decision taken, except when it has been decided by the JC that a member, or a party, may exercise a free vote on a question of conscience. A matter of conscience should be defined by clear criteria in the JC rules.

- 4.2.5 must attend JC caucus meetings punctually and no member is excused from attending a JC meeting except by leave of the chairperson of the JC, or whip of his/her party (where applicable).
- 4.2.6 must always perform their duties in the relevant forum diligently and to the level and standard required by this agreement.
- 4.2.7 ensure that the JC is responsible for the proper functioning of the Coalition in the relevant municipality and may, subject to this agreement and subject to the relevant party formations, formulate policy if there is no clear policy on a particular matter and then only in their municipality.
- 4.2.8 shall be strictly bound to this agreement in realising the objectives and commitments specifically mentioned herein.
- 4.2.9 apply a non-negotiable principle of "no ambushing or surprises".
- 4.2.10 communicate well and effectively within the joint caucus, the coalition government, Portfolio Caucuses, Coalition Management Committee and Coalition Oversight Group.
- 4.2.11 consult and give reasonable notice, as the caucus rules will reflect, to all parties in the JC before a policy, legislative or motion proposal is introduced in a municipal council especially when a proposal may lead to the removal of an elected political office bearer i.e., speaker, mayor, deputy mayor, chief whip or foreseeably conflict with a fundamental part of a party's constitution and/or manifesto.
- 4.2.12 where any elected office bearer resigns, dies, or becomes permanently incapacitated, agree that the office bearer's deputy, if there is one, will fill that position until a successor is elected.
- 4.2.13 agree to a coalition management process that is inclusive, accessible, engaging and dispute-resolution driven.
- 4.2.14 resolve conflict in accordance with the Dispute Resolution Mechanism provided for in clause 6.
- 4.2.15 Provide Joint Caucus reports to the Management Committee where required and requested.
- 4.2.16 As a member of the JC, the Coalition elected Speaker will exercise a casting vote in the Council that conforms with the decision of the JC.

- 4.2.17 If there is no agreed coalition position on a matter to be voted on in council, the JC must request a caucus break to establish such a coalition position.

#### 4.3 MANAGEMENT COMMITTEE (MC)

- 4.3.1 The day-to-day management and the administration of the Coalition is entrusted to a MC consisting of the Mayor, Deputy Mayor, Joint Caucus Chair, Joint Caucus Deputy Chair, Speaker, Chief Whip and leader of every party's caucus and that they will reach decisions by sufficient consensus among the parties.
- 4.3.2 The parties agree that Coalition party leaders (provincial and/or national) may, when invited, attend a MC meeting, insofar as the leader is not the selected representative on the MC. Notice of such attendance shall be given to the MC in order to facilitate same.
- 4.3.3 The MC must report back to the JC on matters of management and administration issues discussed and considered by the JC.
- 4.3.4 In the event of problems and potential conflict, the JC shall report to the MC in order that adjudication thereof in terms of the resolution mechanisms, defined in this agreement, can commence.
- 4.3.5 The MC shall:
- 4.3.5.1 Meet monthly, or more often, if required or necessary, to discuss:
  - 4.3.5.2 any issues identified by any party.
  - 4.3.5.3 any required engagement with the coalition councillors.
  - 4.3.5.4 any needs for consulting, engaging and training of councillors and thereby identifying disputes.
  - 4.3.5.5 creating awareness of objectives and term priorities of the municipalities.
  - 4.3.5.6 endorse the substitution of any office bearer where a vacancy arises, after consultation and recommendation by the relevant JC.

- 4.3.6 consider any issues that may arise within a Coalition government, referred to it by the chairperson of the JC, to consider and resolve, if possible. Where the issue is of such a nature that it cannot be readily resolved, the parties may resort to the Conflict Resolution Mechanism set out herein below.

#### 4.4 COALITION OVERSIGHT GROUP (COG)

The parties agree to establish a COG.

- 4.4.1 Members of a COG shall consist of the national leader of a party in the Coalition (or his/her nominee) and one other provincial leader and the caucus leader of each party in the Coalition.
- 4.4.2 The COG shall engage from time to time with the MC and the entire JC of a municipality, where necessary and required.
- 4.4.3 The COG shall meet every quarter, unless the parties agree that such a meeting is not necessary in a specific quarter. Following such meetings, the COG shall hold media briefings if they have agreed by consensus to do so.
- 4.4.4 The purpose of the COG is to maintain an oversight role to monitor the health and strength of the Coalition relationship, and to observe the MC or JC with regards to coalition effectiveness, cooperation between parties, strain and transparency.
- 4.4.5 The COG shall be entitled to attend a JC meeting at a Municipality to oversee and engage where necessary, or a meeting of the MC, if the COG deem it appropriate and necessary.
- 4.4.6 The COG shall select a chairperson that will serve only as a facilitator of a COG meeting in order that its meetings are orderly and effective.
- 4.4.7 The COG shall be responsible for adjudicating major disputes, where necessary, to safeguard the integrity of the Coalition.
- 4.4.8 The COG agrees to resolve disputes referred to it by way of consensus.
- 4.4.9 The parties agree that should the COG not be able to resolve the dispute before it, the dispute shall then constitute an irreconcilable difference and shall lead to a discussion on the termination of the coalition agreement.

4.4.10 The COG shall, after 100 days of signing this agreement, review the performance and the state of the coalition and progress in implementing this agreement. This review shall take the form of a stock-take and shall also establish whether the parties are abiding by, and mutually co-operating with each other in terms of this agreement.

4.4.11 The COG shall annually, after receipt of the Auditor General's report, review the state of the coalition in terms of this agreement, and the performance of the coalition government. This review is a stock-take to assess implementation of the programme of governance, and to assess whether each party is abiding by, and being appropriately recognised in terms of the coalition agreement.

## 5. COMPOSITION OF GOVERNMENTS

5.1 The parties agree that there are certain strategic appointments in a municipality that require careful consideration.

5.2 These strategic appointments require individuals who can fulfil a strong, effective and competent leadership role within the municipality.

5.3 The appointments referred to hereunder include, where applicable, the positions of mayor, deputy mayor, members of the mayoral committee, speaker, chief whip, chairpersons of municipal committees (Section 79 of the Municipal Structures Act, 117 of 1998), chairperson of the municipal public accounts committee, and chairpersons of sub-councils.

5.4 The parties agree that the selection of the positions mentioned above should be beneficial to the coalition with the view of an effective and cooperative coalition.

5.5 The parties agree that the party allocation and proposed councillors to be put forward for appointment in the strategic positions shall be agreed to during the negotiation of the coalition.

5.6 The agreement mentioned in 5.5. shall be reflected and incorporated herein as listed in Annexure C hereto.

5.7 If any party would like to replace a political office bearer elected by the Council, due to death or loss of membership or for any other reason, the vacancy that will occur and the filling thereof would be determined by the relevant party, after consultation with the COG.

- 5.8 In the event that the Executive Mayor wishes to reshuffle his or her Mayoral Committee for any reason, such a re-shuffle must be conducted after consultation with the COG.
- 5.9 Any changes to the agreed composition, without following due process, will constitute a major dispute in terms hereof.
- 5.10 The parties agree that individuals holding these positions will require a strong, effective and competent administrative support staff and reasonable access to portfolio-related training and capacitation.
- 5.11 The structure of political offices will be designed centrally by the MC and any deviations to the approved structure would need to be approved by the MC. The office bearer shall, thereafter, appoint the staff in the political office and they shall report functionally to the office bearer in question.

## 6. CONFLICT RESOLUTION MECHANISM

- 6.1 The parties agree that the success of a Coalition lies in the effective resolution of conflicts that may arise in the Coalition.
- 6.2 It is imperative that an effective mechanism is established for realisation of good governance and to preserve a good working relationship between the parties.
- 6.3 The leader and/or whip of each party in the JC may table a dispute that must be dealt with in terms of this section.
- 6.4 The chairperson of the JC shall, when a dispute arises, record the full extent of the dispute in detail and shall list every member of the JC's concerns or support of the dispute in question.
- 6.5 The chairperson shall thereafter, after consultation with the JC, classify the dispute in terms of clause 6.5.
- 6.6 When a dispute arises and is recorded by the JC in terms of clause 6.3 above, the parties, and their public representatives, should endeavour to resolve it expeditiously, efficiently and effectively, as a commitment to their duty of care towards the coalition, and their mandate from the voters.
- 6.7 The parties agree that certain disputes that arise may be more complex than others and therefore agree to distinguish between certain types of disputes:



#### 6.7.1 Council Disputes:

6.7.1.1 Any disputes that arise from a party or parties raising an objection to an item on the Council agenda shall be resolved in terms of this section.

6.7.1.2 Once an item is removed from the council agenda due to the objection of a party or parties, a meeting must be convened with the Executive Mayor, Speaker, relevant MMC, Section 79 Committee Chairperson and the caucus leader of the dissenting party in order to agree to the changes necessary to resolve the dispute.

6.7.1.3 If no resolution is found through this process, the dispute is referred to the MC for resolution, and referred back to the JC so that the item can serve at the next council meeting.

6.7.1.4 If the MC cannot resolve the matter, is it to be referred to the COG and dealt with as a major dispute.

#### 6.7.2 General disputes:

6.7.2.1 Any disputes that arise during the functioning of the coalition should be resolved in terms of this section. The parties can rely on the JC to resolve the dispute and shall resolve same expeditiously and in an effective manner.

6.7.2.2 Should the dispute not be resolved through the JC within a reasonable time, the dispute shall be escalated by the chairperson of the JC to the MC for assistance in the resolution of the dispute, within a reasonable time.

6.7.2.3 Should the dispute not be resolved through the MC within a reasonable time, the dispute shall be escalated by the MC to the COG for assistance in the resolution of the dispute, within a reasonable time and by way of consensus.

#### 6.7.3 Major disputes concerning the material provisions of this agreement:

6.7.3.1 Disputes envisaged hereunder reference disputes that concern altering any of the provisions of this agreement.



6.7.3.2 The chairperson of the JC shall immediately escalate the dispute to the COG within a reasonable period and it should then be resolved in the most effective, participative and expeditious way.

6.7.3.3 The COG shall resolve a dispute envisaged hereunder by way of consensus after receiving the input of the MC and considering any relevant considerations.

6.7.3.4 The COG shall notify the chairperson of the JC of the resolution to the major dispute and the chairperson shall forthwith notify the JC.

6.7.3.5 The resolution shall be respected and implemented by the JC.

## 7. VARIATION TO THIS AGREEMENT

7.1 This agreement constitutes the entire agreement between the parties and no terms or conditions hereof shall be in any circumstances capable of being varied in any way unless in writing under the signature of the parties hereto;

7.2 The Parties agree to review the agreement after six months from the date of its implementation with the view to improving its functioning in relation to problems that may have arisen. Such changes must be agreed to by sufficient consensus.

## 8. EXIT / TERMINATION

8.1 The parties agree that a Coalition can only be successful if all parties respect and adhere to this agreement.

8.2 The parties agree that a dispute not resolved through the mechanisms of this agreement, will activate the termination of the agreement for the party concerned and may terminate the coalition as a whole. The chairperson of the COG shall keep record of the dispute and the attempts to obtain consensus. The chairperson of the COG shall circulate the record to all members of the COG.

8.3 Also, if at any time, the parties, inclusive of all their public representatives, no longer share the same values, principles and policy objectives, and it is not possible to have a stable, cooperative and effective Coalition, reasonable notice of a party's intention to exit this agreement must be given by that party to the COG.

- 8.4 Should termination follow because of 8.2 above, the COG shall notify the chairperson of the JC who shall forthwith notify the members of the JC of the termination and the reasons therefore and the termination of the coalition shall take immediate effect.
- 8.5 The party that exits the Coalition in accordance with clause 8.3 above, shall provide written notice and reasons for the exit to the COG and parties thereto may elect to publish same accordingly.

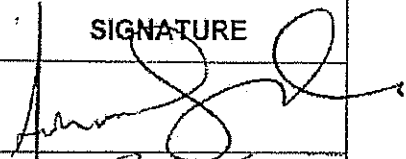
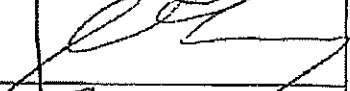
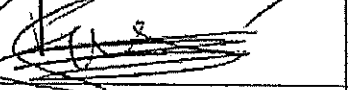
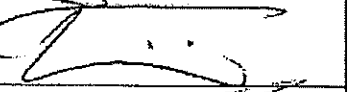


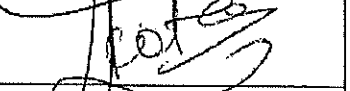
## 9. PUBLICATION OF THE AGREEMENT

- 9.1 The parties to this agreement accept that the Coalition affects each party to the Coalition, its members, and the electorate.
- 9.2 The members of the Coalition accept that the Coalition needs to be transparent and every member to this agreement, whether party or councillor, must be held responsible in accordance herewith.
- 9.3 Publication of this agreement will lead to public confidence and may hold the coalition government accountable.
- 9.4 The parties agree that the announcement of this Coalition shall be made in a joint statement by the parties involved.
- 9.5 It is agreed that the contents of this agreement be made public in the languages of the said municipalities (in accordance with Section 6(3)b of the South African Constitution).
- 9.6 In the event of a major dispute and termination of this agreement, any party may disclose to the public that the coalition was so terminated.

(END)

## SIGNATURE PAGE: CITY OF JOHANNESBURG

Signed at BENONI, GAUTENG on this 22nd day of February 2022.

NAME	PARTY	SIGNATURE
John M. Sheehy	Democratic Alliance	
John C. Morley	Action SA	
GATON McKenzie	Patriotic Alliance	
Bonginkosi Dhlamini	Inkatha Freedom Party	
Anton Alberts	Vryheidsfront Plus	
Julian K. Adams	African Christian Democratic Party	
Mosiuoa Lekota	Congress of the People	
	African Transformation Movement	
	United Independent Movement	
	African Heart Congress	



## PARTIES TO THE COALITION AGREEMENT

	PARTY NAME	ABBREVIATION
1.	Democratic Alliance	DA
2.	Action SA	ActionSA
3.	Patriotic Alliance	PA
4.	Inkatha Freedom Party	IFP
5.	Vryheidsfront Plus	VF Plus
6.	African Christian Democratic Party	ACDP
7.	Congress of the People	COPE
8.	African Transformation Movement	ATM
9.	United Independent Movement	UIM
10.	African Heart Congress	AHC



## ADDITIONAL PRIORITIES IDENTIFIED BY THE MUNICIPALITY

1.	<p><b>Immigration</b></p> <p>Be cognisant that illegal immigration and failures to document legal immigrants are issues that impact local governments and requires this coalition government to develop a holistic strategy to respond to these challenges.</p> <p>Any action against illegal immigrants must adhere to the provisions of the South African Constitution, South African law, precepts of international law, the basic tenets of human compassion and decency, and avoid the promotion of xenophobia.</p>
2.	<p><b>Insourcing</b></p> <p>The insourcing of security and cleaning personnel when the business case for such confirms the principles of both financial sustainability and the provision of dignity of formal employment to these personnel.</p>
3.	<p><b>Inner City Rejuvenation</b></p> <p>The rejuvenation of Inner-City regions of the municipality through the implementation of a multi-disciplinary strategy.</p>
4.	<p><b>Labour Relations</b></p> <p>The development on Memoranda Of Understanding (MOU), as contemplated by Section 23 of the Labour Relations Act, with the represented trade unions of the municipality. Such MOUs should be ratified by the Bargaining Council and should strive to strengthen labour relations and achieve a joint commitment to service delivery.</p>
5.	
6.	



## COMPOSITION OF GOVERNMENT

POSITION	PARTY
Executive Mayor	DA
Deputy Mayor	ActionSA
Speaker	DA
Chief Whip	DA
Chair of Chairs	COPE
MMC: Finance	DA
MMC: Corporate and Shared Services (GCSS)	DA
MMC: Transport	ActionSA
MMC: Development Planning	DA
MMC: Housing	IFP
MMC: Economic Development	ActionSA
MMC: Health and Social Development	PA
MMC: Community Development	ACDP
MMC: Environment and Infrastructure Services (EISD)	DA
MMC: Public Safety	ActionSA
Chairperson: Municipal Public Accounts - MPAC	IFP / ??
Chairperson: Ethics	DA
Chairperson: GEYODI	DA
Chairperson: Governance	ActionSA
Chairperson: OCOL	PA
Chairperson: Rules	UIM
Chairperson: Petitions	ActionSA
Chairperson: Finance	VF Plus
Chairperson: Corporate and Shared Services (GCSS)	ActionSA
Chairperson: Transport	DA
Chairperson: Development Planning	PA
Chairperson: Housing	DA
Chairperson: Economic Development	DA
Chairperson: Health and Social Development	ATM
Chairperson: Community Development	DA
Chairperson: Environment and Infrastructure Services (EISD)	ActionSA
Chairperson: Public Safety	DA

"MP2"

"X"

*PJ Malindi*

12/09/2022

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2022/26391

ON 12 SEPTEMBER 2022 BEFORE HONOURABLE MALINDI J

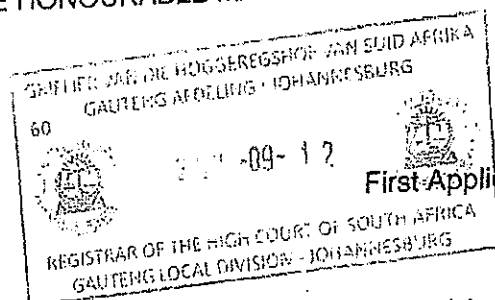
In the matter between:-

THE CITY OF JOHANNESBURG  
METROPOLITAN MUNICIPALITY

THE ACTING CITY MANAGER OF THE CITY OF  
JOHANNESBURG: BRYNE MADUKA

and

COUNCILOR COLLEEN MAKHUBELE



First Applicant

Second Applicant

Respondent

COURT ORDER

After having considered the papers filed of record, and having heard counsel, the following order is made:

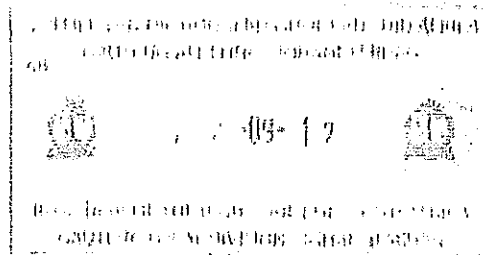
1. The forms and service as provided for in the Rules of Court are dispensed within terms of Rule 6(12) and this application is heard on an urgent basis.
2. The Notice convening the 8th Extra Ordinary Council meeting of the City of Johannesburg Municipality for 13 September 2022 at 10h00 issued by the Respondent is declared to be invalid, null and void.

3. The meeting convened by the notice and scheduled for 13 September 2022 at 10h00 is interdicted from taking place.
4. The Respondent is declared not to be the Acting Speaker of the First Applicant.
5. The Respondent is interdicted from holding herself out as, or as purporting, to be exercising any of the statutory functions of the Acting Speaker of the First Applicant.
6. Ordering the Respondent to pay the costs of this application.

*Pg Malindi*

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**THE REGISTRAR**



*[Handwritten signature]*

"MP3"

87

**MOTION SUBMITTED IN TERMS OF RULE 94(1) OF THE STANDING RULES AND ORDERS OF COUNCIL.**

DATE: 17 AUGUST 2022

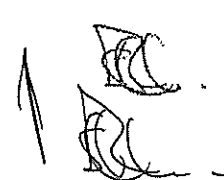
**MOTION ON A VOTE OF NO CONFIDENCE AGAINST THE EXECUTIVE MAYOR, COUNCILLOR MPHO PHALATSE.**

**GROUND FOR THE PROPOSED MOTION**

1. Executive Mayor, Councillor Mpho Phalatse failed to disclose to the Council her criminal case related to her alleged corruption in relation to the Field Band Foundation conflict of interest. This lack of disclosure and accountability to Council demonstrate the Executive Mayor, unethical behaviour to account to Council and the people of Johannesburg.
2. The Executive Mayor, Councillor Mpho Phalatse has failed to report on a quarterly basis on the implementation of all Council resolutions. The Executive Mayor is in contempt of Council as indicated in Rule 37(1) which states:

*'the Executive Mayor must report on a quarterly basis on the implementation of all Council resolutions. The Agenda of the meeting of the Council must include a return showing the status of the implementation of each decision of Council that has not yet been reported as having been finalised on afore-going schedule.'*

3. Chapter 1 of the Constitution of the Republic of South Africa states that the Republic of South Africa is one, sovereign, democratic state founded on the following values:
  - a. Human dignity, the achievement of equality and the advancement of human rights and freedoms.
  - b. Non-racialism and non-sexism.
  - c. Supremacy of the Constitution and the rule of law.
4. Since taking office Executive Mayor, Councillor Mpho Phalatse has spent on average R40 million on 3 law firms whose sole mandate was to purge City employees. To date the City is experiencing a serious cashflow crisis, which has resulted in the operating on overdraft.



5. Executive Mayor, Councillor Mpho Phalatse, has no capacity to apply principles of evidence-based decision making. Her weakness has resulted in her deliberate interference with the administration. This goes against the Code of Conduct for Councils in the Municipal Systems Act, Schedule 1, which states:

"A councillor may not, except as provided by law-

- a. interfere in the management or administration of any department of the municipal council unless mandated by council;
  - b. give or purport to give any instruction to any employee of the council except when authorised to do so;
6. She placed a moratorium on all appointments, which contravened national government's new regulation. Her actions undermines National government Circular No. 12 of 2022, which provides guidance on the implementation of the local government Municipal Systems Act, 2000: Local government staff regulations and guidelines- GNR 890 as published in Government Gazette 45181 and other related regulations.
7. The law requires that when the city panel recommends appointments to Council, the report must have 3 names so that in the event the number one declines the job, number 2 must be appointed, and if number 2 declines then number 3 must be appointed. The Executive Mayor, Councillor Mpho Phalatse, deliberately presented a report which does not comply with the appointed regulations for senior managers of 2014 in particular regulation 15(6). She deliberately misled Council by concealing non-compliance with the Appointment Regulation 2014. This illegal action by the Executive Mayor, Councillor Mpho Phalatse outlines her application of her party's cadre deployment approach.

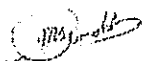
8. As a result, we have lost confidence in the Executive Mayor, Councillor Mpho Phalatse

#### **BELIEVING THAT**

- The Executive Mayor is in breach of her duties and responsibilities as outlined in the Municipal Structures Act Section 56 that states that the Executive Mayor must:
  - 3(d) monitor the management of the municipality's administration in accordance with the directions of the municipal council;
  - (5) report to the municipal council on all decisions taken by the executive mayor.

**IT IS THEREFORE RECOMMENDED THAT:**

1. A motion of no confidence against the Executive Mayor, Councillor Mpho Phalatse, be passed by Council.
2. That, upon passing of the motion of no confidence against the Executive Mayor Councillor Mpho Phalatse, an election of the Executive Mayor be done in accordance with Section 55 of Local Government Municipal Structures Act 117 of 1998 read with Schedule 3 of the Municipal Structures Act in order to fill the said vacancy.




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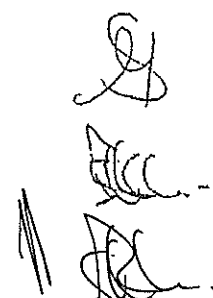
**Councillor Margaret Arnolds**

**Proposer**

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**Councillor Thapelo Amad**

**Seconder**



"MP4"

# MOTIONS

1 REC

NOTICE OF A MOTION IN TERMS OF THE STANDING RULES AND ORDERS OF A COUNCIL  
FOR THE CITY OF JOHANNESBURG (COJ) RESIDENTS WHO RECEIVE SOCIAL GRANTS TO  
AUTOMATICALLY QUALIFY FOR FREE BASIC SERVICES .

I, Cllr Mvuzo Shaun Dlanjwa (EFF) hereby propose the following motion to be debated in the  
house in terms of Rule 91 (1).

Noting that :

- I. According to the Constitution, 1996 The Bill of Rights is a cornerstone of democracy and enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom
- II. Chapter 27 (1) (c) guarantees everyone the right to have access to social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.
- III. Section 152 (1) (b) of the Constitution of the Republic of South Africa mentions the provision of services to communities in a sustainable manner as one of the five (5) objects of local government.
- IV. Every citizen has fundamental Human rights and right to Human Dignity
- V. Due to the inequitable economic development policies of the past, centred on Apartheid, approximately one third of South Africans remain excluded from the mainstream, formal, economy

Believing that:

- City of Johannesburg (COJ) must recognize its constitutional obligation to give priority to the basic needs of its community, which is to promote the social and economic development of the community and to ensure that all residents and communities in the municipality have access at least to all basic municipal services.

Having considered the factors stated above, we therefore request the council to resolve that;

1. The City of Johannesburg Metropolitan Municipality reviews the Extended Social Package (ESP) policy to allow for all residents who receive government social grants to automatically qualify for free basic services.

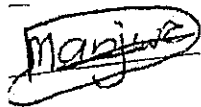


2. To ensure successful implementation, the city must negotiate with relevant treasuries as provided for the Intergovernmental Fiscal Framework Act and adjust its budget allocation to ensure that this mandate is funded.
3. The city to proactively update the ESP database to ensure that no pensioner is left out.

Proposed by

Cllr Mvuzo Shaun Dlanjwa

Signature:

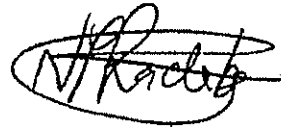


Date 14 September 2022

Seconded by

Cllr Nonhlahla Pretty Radebe

Signature:



Date 14 September 2022



I, Councillor Thabiso Telekoa hereby table a motion in terms of rule 91(1) of the standing rules and orders of council.

Noting that:

- (i) The City of Johannesburg has a total of 159 mines of which 44 are gold mines,
- (ii) Historically, mining capital has had direct hand in influencing urban development and economic growth in our city,
- (iii) South Africa has an estimate of 6000 abandoned mines and Johannesburg accounts for a majority of these abandoned gold mines,
- (iv) Abandoned mines pose a significant threat to the health and safety of residents as well as the environment impacting on the soil and water quality,
- (v) EFF cardinal pillar number 3 calls for the nationalisation of mines, banks and other strategic sectors of the economy without compensation.

Believing that:

- (i) Section 25(5) of the Constitution states that the government must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.
- (ii) Mineral and Petroleum resources development act, 2002 (Act no. 28 of 2002) make provision for equitable access to and sustainable development of the nation's mineral and petroleum resources.
- (iii) Broad based socio economic empowerment charter for the mining and minerals industry of 2018 state that mining communities form an integral part of mining development, which requires a balance between mining and mine community's socio- economic development needs. A mining right holder must meaningfully contribute towards Mine Community Development; with a bias towards mine communities both in terms of impact and size, and in keeping with the principles of the social license to operate.

**WE THEREFORE RECOMMEND THAT COUNCIL RESOLVE:**

- (i) That the City of Johannesburg engage the Department of Mineral Resources and Energy (DMRE), Department of Agriculture, Land Reform and Rural Development and other relevant stakeholders with an intention of coming up with a plan to rehabilitate the mining land in all abandoned mines in Johannesburg.
- (ii) The engagement with these stakeholders must include the plan to revitalise and redevelop all mine dumping sites in the city as well as expropriating and reclaiming all the ownerless mining sites.
- (iii) That the above recommendations should be implemented in compliance with all the relevant legislations including Intergovernmental Relations Framework Act, relevant policies and in consultation with all relevant bodies.

**Proposer**

Cllr Thabiso Alfred Telekoa



Date: 14/09/2022

**Seconded**

Cllr Nthokge Donald Moepi



Date: 14/09/2022



**MOTION RECOMMENDING EXECUTIVE TO INITIATE THE PROCESS OF ESTABLISHING THE OFFICE OF THE DEPUTY EXECUTIVE MAYOR**

I, Councillor.....ZARLE.....le (SANT)....., hereby table the following motion in terms of Standing Rule 89 (2) (b) to make a recommendation to the executive to establish the Office of the Deputy Executive Mayor.

**Noting that:**

The City of Johannesburg's residents will be best served by a transversal and cross-cutting approach to governance than ensures all departments and entities are working toward the same goals and outcomes. The comprehensive requirements and demands of the Office of the Executive Mayor limits the Executive Mayor's ability to oversee such transversal governance, and a Deputy Executive Mayor will be well-positioned to assist the Executive Mayor in such duties.

The City of Johannesburg is a Category A municipality with a mayoral executive system, and thus Section 55(1) of the Municipal Structures Act allows for the election of a deputy executive mayor by Council, if the MEC for local government in the province so approves. The procedure set out in Schedule 3 of the Act must be followed for the election of a deputy executive mayor.

An elected deputy executive will serve an important role in the execution of the Council's duties, including acting as Executive Mayor when the Executive Mayor is absent, not available or when the office is vacant, serving as a member of the Mayoral Committee and exercising any duties delegated to the position in terms of s60 of the Municipal Structures Act or s59 of the Municipal Systems Act.

The annual budget for the 2022/2023 financial year includes an allocation of R8 million for the establishment and functioning of the Office of the Deputy Executive Mayor.

The establishment of the Office of the Deputy Executive Mayor was agreed upon by all members of the Multi-Party Government in November, 2021.

**Believing that:**

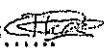
A Deputy Executive Mayor will greatly improve the executive's ability to meet the responsibilities of the Executive Mayor and the mayoral committee set out in sections 56 and 60 of the Municipal Structures Act.

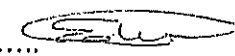
ActionSA's Local Government Manifesto commits the party to customer-centric governance that delivers service with pride, ethical and professional public service and efficient and effective administrations. The establishment of the Office of the Deputy Executive Mayor with a mandate to oversee cross-cutting functions will serve as an important step at ensuring that our residents are better served through professional public service that makes our administration more efficient and effective.



Therefore, this Council resolves that the Executive must:

- **Initiate an engagement with provincial government:** the Executive must initiate engagements with the Gauteng MEC of COGTA to obtain approval for the establishment of the Office of the Deputy Executive Mayor, as envisaged by section 55 of the Municipal Structures Act
- **Develop the terms of reference (ToR) for the mandate of the Office of the Deputy Executive Mayor:** the proposed mandate of the Office includes the functions of the Leader of Executive Business, the coordination of transversal economic service delivery areas and the coordination of customer care and regional operations, which fall within the scope of section 60 of the Municipal Structures Act and section 59 of the Municipal Systems Act.
- **Finalise the departmental arrangements of the Office of the Deputy Executive Mayor:** instruct the Department of Human Resources to establish the departmental arrangement of the Office, including support staff and annual budget, for approval by Council.

PROPOSER: Cllr. Zack Lebotlang 

SECONDER: Cllr. Mpumi Edward 

DATE: 9th September 2022



**MOTION OF A VOTE OF NO CONFIDENCE AGAINST THE CHAIRPERSON OF MUNICIPAL PUBLIC ACCOUNT COMMITTEE (MPAC), CLLR THANDI NONTENJA**

I, Councillor Larah-Ann Davids-Green, hereby table a notice of motion in terms of Standing Rule 94 (1) of the Standing Rules of Council, 2016.

**Background**

The Municipal Public Account Committee (MPAC) has the responsibility to promote oversight, transparency, accountability, good governance, effective financial management, and the proper management of public resources in the city of Johannesburg. This is in line with the following statutory framework:

- Constitution of the Republic of South Africa, 1996;
- Municipal Finance Management Act (MFMA) No 56 of 2003;
- Municipal Structures Amendment Act and
- Municipal Systems Act.

MPAC has the vital role of assisting the municipal council in holding not only the executive but also the municipal administration to account. It is therefore, the responsibility of MPAC to examine the annual financial statements (AFS) and audit reports (AR) of the municipality and its municipal entities, to evaluate the extent to which the Auditor General's recommendations have been implemented in order to see improvements from previous statements.

The effectiveness of MPAC will be evidenced in the quality of the AFS of the City of Johannesburg with improved audit outcomes therefore saving the city money by increasing the rate of recoveries, and decreasing non-compliance.

The Chairperson has displayed a lack of urgency, displayed in the unproductive and clumsy format of our meetings. This is due in part, of her allowing unnecessary speeches and grandstanding by councillors. There were endless repetitive follow-up questions to officials who were either not there, the officials who were there were not the authors of the report and therefore could not adequately answer and were not furnished with questions before hand. This has led us to sit a total of 18 times.



Despite the MPACs role to utilize resources efficiently, the Chairperson insists on in-person meetings which incurs breakfast and lunch expenses which from the minutes of January –June 2022 totalled R142 000, an unnecessary inflated amount where in the year 2022 we have virtual platforms where meetings can be held which could at least half that expense.

The 18 times MPAC has convened, the committee has only managed to process R5.1 billion Unauthorised, Irregular, Fruitless and Wasteful expenditure (UIFWe) out of a total of R18.8 billion that we need to process. Of that 5.1 billion, only R22 601 is being recovered, the rest have been written off. This goes to show the slow pace of our sittings and speaks to the lack of productivity.

MPAC has failed to effectively monitor the implementation of consequence management and reporting to the South African Police Services (SAPS) for criminal investigation through regular reports from the Disciplinary Boards as Instructed in Section 32 of MFMA. This should be a standing item on the agenda for MPAC to oversee the extent to which consequence management has been implemented, and what is the current status of consequences implemented in the case of irregular expenditure, financial misconduct, possible fraud and abuse of the supply chain management system.

The MPAC chairperson has failed to ensure the monthly budget statement submitted to the Mayor be brought before the MPAC, which must review and report any concerns to council as stated in Section 71 of MFMA.

On the 25<sup>th</sup> August 2022 during the 6<sup>th</sup> ordinary meeting of the MPAC, the ANC and EFF councillors walked out resulting in the collapse of the meeting due to the Acting City Manager not being present in the meeting as is expected. The acting City Manager has not attended other MPAC meetings prior to this, thus the chairperson has failed to effectively use her authority to manage this problem and ensure the correct officials attend meetings.

On the 31<sup>st</sup> August 2022 during the 7<sup>th</sup> ordinary council meeting, the chairperson failed to appear in council to present an MPAC item on the agenda regarding UIFWe write-offs. The chairperson did not



submit her leave of absence to the Speaker of Council and failed to appoint any other councillor to present on her behalf. This shows a gross lack of responsibility on her part and complete disregard for the importance of her role as a Chairperson in reporting back to council on behalf of her committee.

Lastly, the Chairpersons stated reason for the lack of productivity of the MPAC is lack of institutional memory as most councillors in the committee is new. While most of the councillors are new to MPAC, this however is deceiving, as this is the second term of the Cllr Nontenja as Chair of MPAC. This begs the question, what has the Chair and her committee achieved in the previous term? Any milestones? How much UIFW's were recovered? What has MPAC achieved for the past seven months since its establishment? Sadly, there is nothing tangible to show. As the Chinese saying goes "The Fish rots from the head", which simply put in this circumstance means weak chairpersons result in weak committees.

**Believing that:**


1. The Chairperson of Municipal Public Account Committee (MPAC), Councillor Thandi Nontenja has failed in her responsibility to ensure effective oversight from a compliance and service delivery perspective over the financial governance of the City of Johannesburg, its municipal entities, and employees of the City.
2. The Chairperson of Municipal Public Account Committee (MPAC), Councillor Thandi Nontenja, has failed to provide leadership and to ensure the smooth running of the Committee.

**Therefore, this Council resolves that:**

1. That a motion of No-Confidence against the Chairperson of the Municipal Public Account Committee (MPAC), Councillor Thandi Nontenja be passed by Council.



2. That upon passing of this motion, the vacancy of the position of the Municipal Public Account Committee (MPAC), be filled in accordance with Rule 24 of the Standing Rules and Orders of Council.



-----  
Cllr Larah-Ann Davids-Green

Proposer



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Cllr Lebogang Modukanene

Seconder

DATE: 08<sup>th</sup> September 2022



**MOTION OF A VOTE OF NO CONFIDENCE AGAINST THE  
CHAIRPERSON OF THE COMMITTEE OF CHAIRPERSONS (CHAIR of  
CHAIRS), CLLR. COLLEEN MAKHUBELE**

I, Councillor Marcel Coutriers, hereby table a notice of motion in  
terms of Standing Rule 94(1) of the Standing Rules of Council, 2016.

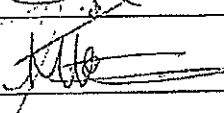
**Believing that:**

1. the Chairperson of the Committee of Chairperson (Chair of  
Chairs), Councillor Colleen Makhubele has failed to act in the  
best interest of the municipality and acted in such a way that  
the credibility and the integrity of the municipality are  
compromised.

**Therefore, this Council resolves that:**

1. a motion of **No-Confidence** against the Chairperson of the  
Committee of Chairperson (Chair of Chairs), Councillor Colleen  
Makhubele be passed by Council.
2. that upon passing of this motion, the vacancy of the position of  
the Chairperson of the Committee of Chairperson (Chair of Chairs),  
be filled in accordance with Rule 22 of the Standing Rules and  
Orders of Council.

**PROPOSER:**  Cllr. Marcel Coutriers

**SECONDER:**  Cllr. Nobuhle Mthembu

**DATE:** 08<sup>th</sup> September 2022

1 REC

## NOTICE OF A MOTION IN TERMS OF THE STANDING RULES AND ORDERS OF COUNCIL

KINDLY TAKE NOTICE THAT in terms of Chapter 7 and in particular Rules 89 and 94 (1) of the Standing Rules and Orders of Council, the proposer and seconder hereby submit the following motion.

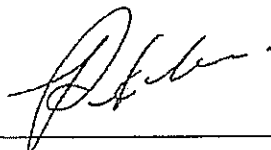
- A MOTION OF A VOTE OF NO CONFIDENCE AGAINST THE CHAIRPERSON OF THE FINANCE COMMITTEE COUNCILLOR F DE LANGE.

### BACKGROUND

- The Chairperson of Finance Committee, Councillor de Lange manages the Committee in a very authoritarian manner.
- Councillor de Lange stifles debates during the Committee meetings and only allows input from one Committee member per political party and thus members are unable to effectively interrogate the Executive reports and hold them to account.
- Councillor de Lange has failed to ensure that the Executive submits reports timeously, and as it is the Committee has not received Section 71 reports for the period May and June.

### IT IS THEREFORE RECOMMENDED:

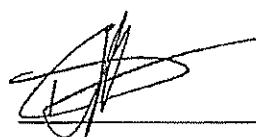
1. That a motion of a vote of no confidence against the Chairperson of Finance Committee, Councillor F de Lange be passed by Council.
2. That upon the passing of this motion, the vacancy for the position of the Chairperson of Finance Committee be filled in accordance with Rule 24 of the Standing Rules and Orders of Council.

  
Councillor T. T. RADEBE

Proposer

Date: 14/09/2022

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Councillor D. N. Modupi

Secunder

Date: 13/09/2022



## **A MOTION OF NO CONFIDENCE**

**A MOTION OF NO CONFIDENCE SUBMITTED IN TERMS OF RULE 89 (2) AND 94 (1) OF THE STANDING RULES AND ORDERS OF THE COUNCIL READ WITH SECTION 58 OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT 117 OF 1998**

**DATE: 13 SEPTEMBER 2022**

**KINDLY TAKE NOTICE THAT** in terms of RULE 89 (2) and 94 (1) of the Rules of the Council of the City of Johannesburg, read with section 58 of the Local Government: Municipal Structures Act 117 of 1998, the proposer and seconder hereby request the Speaker of Council at the next Ordinary Council Meeting scheduled for Wednesday, 28 September 2022 as per the year planner to table the following motion for debate and voting in Council in terms of the Standing Rules and Orders of Council as follows:

Vote of no Confidence against the Executive Mayor, Councillor Mpho Phalatse.

### **GROUND FOR THE PROPOSED MOTION**

1. Chapter 1 of the Constitution of the Republic of South Africa states that the Republic of South Africa is one, sovereign, democratic state founded on the following values:
  - a. Human dignity, the achievement of equality and the advancement of human rights and freedoms.
  - b. Non-racialism and non-sexism.
  - c. Supremacy of the Constitution and the rule of law.
2. A disciplinary process was undertaken by Council to investigate a senior executive manager. A senior and highly experienced Advocate was appointed as the Chairperson of the disciplinary process. The outcomes of the disciplinary process were in favour of the senior executive manager. The Executive Mayor, Councillor



Mpho Phalatse, refused to accept the outcome of the disciplinary process. In the spirit of purging, she ordered the administration to waste City resources and appoint a white Advocate to review the decision of the Chairperson of the disciplinary process.

3. Since taking office Executive Mayor, Councillor Mpho Phalatse has spent on average R40 million on 3 law firms whose sole mandate was to purge City employees. To date the City is experiencing a serious cashflow crisis, which has resulted in the operating on overdraft.
4. Executive Mayor, Councillor Mpho Phalatse, has no capacity to apply principles of evidence-based decision making. Her weakness has resulted in her deliberate interference with the administration. This goes against the Code of Conduct for Councils in the Municipal Systems Act, Schedule 1, which states:

“A councillor may not, except as provided by law-

- a. interfere in the management or administration of any department of the municipal council unless mandated by council.
  - b. give or purport to give any instruction to any employee of the council except when authorised to do so.
5. She placed a moratorium on all appointments, which contravened national government's new regulation. Her actions undermine National government Circular No. 12 of 2022, which provides guidance on the implementation of the local government Municipal Systems Act, 2000: Local government staff regulations and guidelines- GNR 890 as published in Government Gazette 45181 and other related regulations.
  6. The law requires that when the city panel recommends appointments to Council, the report must have 3 names so that in the event the number one declines the job, number 2 must be appointed, and if number 2 declines, then number 3 must be appointed. The Executive Mayor, Councillor Mpho Phalatse, deliberately presented a report which does not comply with the appointed regulations for senior



managers of 2014 in particular regulation 15(6). She deliberately misled Council by concealing non-compliance with the Appointment Regulation 2014. This illegal action by the Executive Mayor, Councillor Mpho Phalatse outlines her application of her party's cadre deployment approach.

7. As Councillors in the City of Johannesburg, we have lost confidence in the Executive Mayor, Councillor Mpho Phalatse

#### **BELIEVING THAT**

- The Executive Mayor is in breach of her duties and responsibilities as outlined Municipal Structures act Section 56 that states that the Executive Mayor must:

3(d) 'monitor the management of the municipality's administration in accordance with the directions of the municipal council:

(5) report to the municipal council on all decisions taken by the executive mayor.

- The Executive Mayor is also in contempt of Council as indicated in Rule 37(1) which states:

*'The Executive Mayor must report on a quarterly basis on the implementation of all Council resolutions. The agenda of the meeting of the Council must include a return showing the status of the implementation of each decision of Council that has not yet been reported as having been finalised on afore-going schedule.'*

#### **IT IS THEREFORE RECOMMENDED THAT:**

1. A motion of no confidence against the Executive Mayor, Councillor Mpho Phalatse, be passed by Council.
2. That, in the event, the motion of no confidence succeeds, a new Executive Mayor be elected.

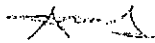




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**Councillor Margaret Arnolds**

**Proposer**




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**Councillor Thapelo Amad**

**Seconder**

**KINDLY TABLE THE MOTION ACCORDINGLY.**

**DATED AT JOHANNESBURG ON THIS 13 SEPTEMBER 2022.**



## **NOTICE OF A MOTION IN TERMS OF THE STANDING RULES AND ORDERS OF COUNCIL**

**KINDLY TAKE NOTICE THAT** in terms of Chapter 7 and in particular Rules 89 and 94 (1) of the Standing Rules and Orders of Council, the proposer and seconder hereby submit the following motion.

- **A MOTION OF A VOTE OF NO CONFIDENCE AGAINST THE CHAIRPERSON OF SECTION 79 ECONOMIC DEVELOPMENT COMMITTEE, COUNCILLOR B NKOMO.**

### **BACKGROUND**

- Section 79 Committees are the custodians of oversight, and their key mandate is to perform oversight on the activities of respective Executive departments and its entities which includes monitoring their delivery and outputs.
- Councillor Nkomo, as the Chairperson of the Economic Development Committee failed to provide leadership to the Committee in ensuring that its oversight role is conducted efficiently and in a credible manner.
- Councillor Nkomo has failed in his duties as the Committee Chairperson to ensure that the Committee conducts its oversight responsibility in an effective way, which would have enabled the Committee to appropriately hold the Executive accountable.
- Oversight is key in ensuring accountability and delivery of services to the residents of Johannesburg, and failure in that regard equals failing the communities that elected councillors to be part of this Council to service them.
- Based on the abovementioned, we have lost confidence in the Chairperson of the Economic Development Committee, Councillor Nkomo.

**IT IS THEREFORE RECOMMENDED:**

1. That a motion of a vote of no confidence against the Chairperson of Economic Development Committee, Councillor B Nkomo be passed by Council.
2. That upon the passing of this motion, the vacancy for the position of the Chairperson of Economic Development be filled in accordance with Rule 24 of the Standing Rules and Orders of Council.

Tefo A. Raphodu

Councillor Tefo A. Raphodu

Proposer

Date: 13/09/22

M G Bolani

Councillor M G Bolani

Seconder

Date: 13/09/2022

## NOTICE OF A MOTION IN TERMS OF THE STANDING RULES AND ORDERS OF COUNCIL

KINDLY TAKE NOTICE THAT in terms of Chapter 7 and in particular Rules 89 and 94 (1) of the Standing Rules and Orders of Council, the proposer and seconder hereby submit the following motion.

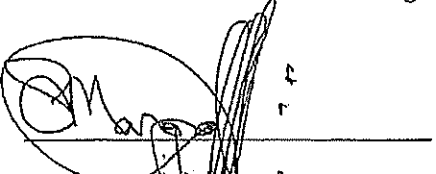
- A MOTION OF A VOTE OF NO CONFIDENCE AGAINST THE CHAIRPERSON OF THE ETHICS AND DISCIPLINARY COMMITTEE, COUNCILLOR G NIEMAND.

### BACKGROUND

- The Chairperson of Ethics and Disciplinary Committee, Councillor G Niemand has failed to ensure that the Committee executes its duties in a fair and impartial manner.
- Councillor Niemand postponed the Committee meeting without providing valid reasons, therefore failed to provide leadership and to ensure the smooth running of the Committee.

### IT IS THEREFORE RECOMMENDED:

1. That a motion of a vote of no confidence against the Chairperson of Ethics and Disciplinary Committee, Councillor G Niemand be passed by Council.
2. That upon the passing of this motion, the vacancy for the position of the Chairperson of Ethics and Disciplinary Committee be filled in accordance with Rule 24 of the Standing and Orders of Council


  
Councillor M. Nyamenyi

Proposer

Date:

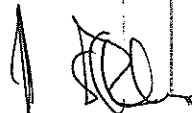
12/09/2022

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C. A. MABUKE  
Councillor

Secunder

Date: 13/09/2022



## NOTICE OF A MOTION IN TERMS OF THE STANDING RULES AND ORDERS OF COUNCIL

KINDLY TAKE NOTICE THAT in terms of Chapter 7 and in particular Rules 89 and 94 (1) of the Standing Rules and Orders of Council, the proposer and seconder hereby submit the following motion.

- A MOTION OF A VOTE OF NO CONFIDENCE AGAINST THE CHAIRPERSON OF SECTION 79 HOUSING COMMITTEE COUNCILLOR A CHRISTIANS.

### BACKGROUND

- The Chairperson of the Housing Committee, Councillor Christians treats the Committee as an extension of the DA caucus.
- Councillor Christians has failed in his duties to ensure that the Committee conducts effective oversight on the performance of the Housing Department and JOSHCO.
- The Chairperson of Housing Committee, Councillor Christians stifles the debate and does not conduct the Committee meetings in a democratic manner.
- In all the meetings of the Committee, the Chairperson of Housing Committee Councillor Christians suppresses councillors whose views he does not support, and this has a negative impact on the work of the Committee as only those with views aligned to his are allowed to contribute to the work of the Committee.

### IT IS THEREFORE RECOMMENDED:

1. That a motion of a vote of no confidence against the Chairperson of Housing Committee, Councillor A Christians be passed by Council.
2. That upon the passing of this motion, the vacancy for the position of the Chairperson of Housing Committee be filled in accordance with Rule 24 of the Standing Rules and Orders of Council.


  
Councillor

*M. Mazibukwana*

Proposer

Date: 13/09/2022

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Councillor B Dlamini

Seconder

Date: 13/09/2022



#### MOTION

- A motion of a Vote of No Confidence against the Chairperson of Health and Social Development Committee, Cllr L. Magwentshu.

#### BACKGROUND

- The Chairperson of Health and Social Development Committee, Cllr L. Magwentshu has failed to ensure that the committee properly holds the executive accountable for the performance of the department and regularly engaging the MMC of the department to ensure effective oversight is done over the business plans of the department and its execution.
- Cllr L. Magwentshu has failed to provide the committee with diligent and responsive leadership in times when he has been called to do so.
- Cllr L. Magwentshu compromised the committee and its arranged strategic planning sessions by allowing himself to be misguided and making premature decisions which allowed for wasteful expenditure by postponing the planned sessions without valid reasoning.
- We have therefore lost confidence in the Chairperson of Health and Social Development Committee, Cllr L. Magwentshu.

#### IT IS THEREFORE RECOMMENDED TO THIS COUNCIL THAT:

1. A Motion of Vote of No Confidence against the Chairperson of Health and Social Development Committee, Councillor L. Magwentshu be passed by council.
2. Upon passing of this motion, the vacancy of the position of the Chairperson of Health and Social Development Committee be filled in accordance with Rule 24 of the Standing Rules and Orders of Council.



Proposer

Cllr Chloe Homer

Date:



Seconder

Cllr Rene Benjamin

Date:



## NOTICE OF A MOTION IN TERMS OF THE STANDING RULES AND ORDERS OF COUNCIL

KINDLY TAKE NOTICE THAT in terms of Chapter 7 and in particular Rules 89 and 94 (1) of the Standing Rules and Orders of Council, the proposer and seconder hereby submit the following motion.

- **A MOTION OF A VOTE OF NO CONFIDENCE AGAINST THE WHIP OF COUNCIL, COUNCILLOR TYRELL MEYERS.**

### BACKGROUND

- ✚ The Whip of Council has failed to effectively manage the relationship between political parties represented in Council, in that under his whippery the relationship between political parties in Council has become extremely partisan, bias and dysfunctional where an atmosphere of mistrust is permeating.
- ✚ Councillor Meyers has failed to provide leadership in facilitating consensus amongst the various political parties represented in Council.
- ✚ Part of the responsibility of the Whip of Council is to inform the Whips of all parties on important matters on the Council agenda, however Councillor Meyers has dismally failed in this regard as in all Council meetings the Executive tabled late reports which in most instances relates to the future of particular senior officials in the City and he failed to inform the party whips on such important matters.
- ✚ Further to the above, the tabling of the said late reports without the knowledge of party whips denied the councillors the opportunity to do justice to those matters due to insufficient time to read them thoroughly. In some instances, this resulted in Council being chaotic.
- ✚ These are some of the matters why we have lost confidence in the Whip of Council, Councillor Tyrell Meyers.

**IT IS THEREFORE RECOMMENDED:**

- 1 That a motion of a vote of no confidence against the Whip of Council, Councillor Tyrell Meyers be passed by Council.
- 2 That upon the passing of this motion, the vacancy for the position of the Whip of Council be filled in accordance with the applicable legislation.



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Cllr *S.E MGCINA*

**Proposer**

**Date:** 13/09/2022



---

Cllr *B. Dammie*

**Seconder**

**Date:** 13/09/2022



## NOTICE OF A MOTION IN TERMS OF THE STANDING RULES AND ORDERS OF COUNCIL

KINDLY TAKE NOTICE THAT in terms of Chapter 7 and in particular Rules 89 and 94 (1) of the Standing Rules and Orders of Council, the proposer and seconder hereby submit the following motion.

- A MOTION OF A VOTE OF NO CONFIDENCE AGAINST THE CHAIRPERSON OF TRANSPORT COMMITTEE, COUNCILLOR W ALEXANDER.

### BACKGROUND

1. The Chairperson of the Transport Committee, Councillor Alexander has failed to ensure that the Committee effectively holds the Executive accountable for the performance of the department and its entities.
2. The Chairperson of Transport Committee, Councillor Alexander has failed to provide leadership and to ensure the smooth running of the Committee.

### IT IS THEREFORE RECOMMENDED:

- 1 That a motion of a vote of no confidence against the Chairperson of Transport Committee, Councillor W Alexander be passed by Council.
- 2 That upon the passing of this motion, the vacancy for the position of the Chairperson of Transport Committee be filled in accordance with Rule 24 of the Standing Rules and Orders of Council.

Y Twala Y Twala

Cllr Y Twala

Proposer

Date: 13/09/2022

T. M. MHLALI

Cllr T. M. MHLALI

Secunder

Date: 13.09.2022



"MP5" "FAL" 18

## TERMS OF REFERENCE

### SECTION 79 PROGRAMMING COMMITTEE

#### A. *OBJECTIVE OF THE PROGRAMMING COMMITTEE*

1. To oversee and regulate the programming of Council agenda and proceedings.

#### B. *POWERS OF RECOMMENDATION*

1. To recommend a programme for debates on matters of public interest to Council.
2. To recommend a programme for questions to the Executive Mayor and Members of the Mayoral Committee.
3. To consider and select motions for the Council agenda.

#### C. *DELEGATED POWERS*

1. The placing of items on the Council agenda.
2. Referral of Items to relevant committees.
3. Finalising the speakers list including the allocation of speaking time.
4. Planning the scheduling of meetings of Committees and Council.

*[Handwritten signatures and initials]*

CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY  
LEGISLATURE

STANDING RULES AND ORDERS OF COUNCIL, 2016



CITY OF JOHANNESBURG  
METROPOLITAN MUNICIPALITY  
OFFICE OF THE SPEAKER

Version	APPROVAL DATE
1.	July 2010
1 <sup>st</sup> Amendment	25 April 2013
2 <sup>nd</sup> Amendment	19 September 2013
3 <sup>rd</sup> Amendment	23 June 2016

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## CHAPTER 1: INTRODUCTION

### Purpose of the Rules

- 1 (1) These are rules for proceedings of Council in the City of Johannesburg Metropolitan Municipality and for the exercise of its powers.
- (2) The Rules are intended to enable the Council to fulfill its constitutional responsibilities. This means that they must -
  - (a) promote the orderly conduct of Council and its Committees;
  - (b) promote the ability of Council to conduct its business, oversee the executive and facilitate public participation;
  - (c) facilitate debate and discussions;
  - (d) ensure that all parties and Councillors have an opportunity to participate in the work of the Council in line with the constitutional dispensation;
  - (e) ensure public access to the Council and its proceedings and facilitate public participation in its processes; and
  - (f) promote democratic order, non-racialism and non-sexism, and exclude any other forms of discrimination.
- (3) These Rules are not intended to diminish or restrict the Council's powers, privileges and immunities.
- (4) These rules must be read in conjunction with any relevant National Legislation and the Constitution of the Republic of South Africa.

### Publication and display of the Rules

- 2 These Rules must be published in the language of Record (English), and a copy of the Rules must be displayed for easy reference for Councillors, officials and members of the public and must be made available in three (3) additional languages in terms the language policy of the City.

### Definitions

- 3 In these Rules -
  - "Adjourning the Council or a meeting of a Committee" means closing the meeting. Any unfinished business needs to be rescheduled by inclusion on the next Council or Committee meeting agenda;
  - "Act" means Act No. 117 of 1998, the Local Government: Municipal Structures Act;
  - "Agenda" means the document that describes the business of the Council or Committee and includes the proceedings for the meeting;
  - "ADBS" means Action Driven Balanced Scorecard;
  - "CAPEX", means capital expenditure;
  - "Chairperson of Committees" means the person who chairs the Committee of Chairpersons;

"Chief Whip of Council" means a Councillor elected by a majority of Councillors in terms of Rule 20 of these Standing Rules;

"City Manager" means the Municipal Manager appointed in terms of Section 54A of the Systems Act, as amended;

"Code of Conduct" in relation to a councillor, means the code of conduct set out in Schedule 1 of the Systems Act;

"Committee" means a Committee of Council, established in terms of Section 79 of the Act, as amended;

"Council business" means any item before Council or its Committees or other business that the Council or its Committees may consider in terms of these Rules;

"Council Chamber" means the room in which the proceedings of the Council take place, excluding those areas where members of the public and the media may listen to proceedings;

"Council Precinct" means any place *de facto* occupied by Councillors for their duties and over which the Speaker has authority;

"Constitution" means the Constitution of the Republic South Africa, Act 108 of 1996;

"Council" means an assembly of elected representatives in the City of Johannesburg in plenary, either in Council or in Committees of Council;

"Councillor" means a member of the Council;

"Day" means calendar day;

"Dress Code" means formal lounge suit and/or jacket and tie, religious wear or traditional wear, and excludes the following non exhaustive list; jeans, sneakers, sleepers, t-shirts, vests, leggings, sportswear, Political Party Symbols and/or insignia;

"Executive" means the Executive Mayor and Members of the Mayoral Committee;

"Hearsay evidence" means evidence, whether oral or in writing, the probative value of which depends upon the credibility of any person other than the person giving such evidence;

"IDP" means Integrated Development Plan;

"Judicial Officer" means a judge of a High Court of South Africa or any of the Superior Courts in the Republic, or a Senior Magistrate from any Regional Magistrate's Court in South Africa;

"Language of record" means English;

"Languages of the Council" means languages recognized by the language policy of the City;

"Leader of Executive Business" is a Councillor appointed by the Executive Mayor to manage the interface between the Executive and the Legislature;

"Legislature" means the Legislative Arm of Council;

"Majority of the members of the Council" means half the members of the Council plus one;

"MFMA" means Municipal Finance Management Act 56 of 2003;

"MMC" means Member of the Mayoral Committee;

"MOE" means Municipal Owned Entity of the City of Johannesburg Metropolitan Municipality;

"Motion" means a proposal for a resolution to be adopted or debated by Council;

"Municipal Code" means the official record of all applicable by-laws;

"Municipal Council" means a municipal council referred to in section 157 (1) of the Constitution;

"Municipality" means a municipality as defined in section 2 of the Systems Act;

"Office bearers" means the Speaker, the Executive Mayor, the Chief Whip, the Chairperson of Chairpersons and Chairpersons of Committees;

"Opex" means Operational Expenditure;

"Party whip" means a Councillor designated by their party to serve in that capacity;

"Petitions policy" means the adopted Council petitions policy;

"Point of Order" means an interjection, during a meeting of Council or a committee, by a Councillor, who does not have the floor, to call the attention of the Presiding Officer to an alleged violation or breach of the Standing Rules and or other procedure;

"Presiding Officer" means the Speaker of Council, the Chairperson of Committees or any other Chairperson of a section 79 Committee of Council;

"Protocol" means the official procedure or system of rules governing the affairs of the Legislature as prescribed by law or approved by Council in terms of these Rules;

"Protocol Officers" means an employee of the Legislature who is designated to handle matters of etiquette and protocol;

"Public" means members of the public in as far as they are within the precincts of council;

"Quorum" means a total of 50% plus one of Councillors elected, unless otherwise stipulated in the Rules;

"SALGA": South African Local Government Association;

"Secretary" means the Secretary to Council or any person delegated or appointed by the Secretary to Council to perform Council secretariat functions in her/his absence;

"Security personnel" mean security personnel employed directly by or contracted to the City of Johannesburg Metropolitan Municipality and employed to ensure the safety of the property and persons in the City of Johannesburg;

"Systems Act" means, the Local Government: Municipal Systems Act No 32 of 2000, as amended;

"Terms of Reference" means the scope and limitations of activity or authority"

"Vertical" means different levels or stages of a hierarchy or process; and

"Whippery" means a structure representative of all political party whips.

#### Authority and application of the Rules

#### 4 These Rules apply to -

- (1) all Councillors;
- (2) all parties represented in the Council;
- (3) all employees of the Municipality in the course and scope of their employment;
- (4) any consultant or contractor to the Legislature, in the course of fulfilling their consulting or contractual obligations;
- (5) the public; and
- (6) Council and its Committees

## Amendment of the Rules

- 5
- (1) A Rule may be amended, revoked or added by a resolution of the Council.
  - (2) Any Councillor proposing an amendment to the Rules must submit the proposal in writing to the Rules Committee, which Committee shall process the proposal in accordance with its terms of reference.
  - (3) A resolution of the Council to amend the Rules must be introduced by the Speaker of Council and accompanied by a report of the Rules Committee.

## Interpretation of the Rules

- 6
- (1) The Presiding Officer must give a ruling -
    - (a) whenever a question arises about the interpretation or application of a Rule; and
    - (b) in cases not provided for in these Rules.
  - (2) When the Presiding Officer gives a ruling, she or he must consider best practice and be guided by -
    - (a) previous rulings; and
    - (b) the established practices of the Council.
  - (3) A ruling on a case not provided for in these Rules remains in force until the Council has decided on the matter.
  - (4) A ruling must be published in the language of record. A copy of the ruling in one of the other languages of the Council must be made available to any Councillor on request.

## Precincts of Council

- 7
- (1) The precincts of Council is the area of land and every building or part of a building under the Legislature's control, including -
    - (a) the Chamber in which the proceedings of Council are conducted and the galleries and lobbies of the chambers;
    - (b) Committee rooms and other meeting places provided or used primarily for Council's purposes;
    - (c) every other building or part of a building provided or used in connection with the proceedings of Council, while so used; and
    - (d) every part of the buildings in which the chambers are situated, and every forecourt, yard, garden, enclosure or open space appurtenant thereto.
  - (2) Insofar as it may be necessary, in a case where Council or Committees convene beyond the seat of Council, these Rules apply as if the premises where Council or Committees are meeting were within the precincts of Council.

## **CHAPTER 2: CEREMONIES AND SPECIAL MEETINGS**

### **Part 1: Ceremonies**

#### **8 Ceremonies constitute -**

- (1) the first meeting of the Council after an election;
- (2) the official opening of the Council each year (State of the City Address by the Executive Mayor);
- (3) designated special and extraordinary meeting, as determined by the Speaker of Council; and
- (4) Closing of Council before the December recess, being the last Council meeting of the calendar year.

An Imbongi, poet or performing artist may perform and the National Anthem must be sung at the official opening of Council and the closing of Council as per sub-rules (2) and (4) above.

### **Part 2: First meeting after an election**

#### **Council sits within 14 days**

- 9 In accordance with Section 29(2) of the Act, the Secretary to Council as delegated must call the date and time of the first meeting and opening of Council, within 14 days after the Council has been declared elected.

#### **Councillors take oath of affirmation**

- 10 (1) At the first meeting of the Council after an election, after the notice convening the Council has been read and before Councillors may begin to perform their functions, they must swear or affirm faithfulness and obedience to the Council before a Judicial officer.
- (2) Councillor(s) who fill a vacancy in the Council between elections must, before a Judicial Officer or the Speaker, take an oath or affirm their faithfulness to the Republic and obedience to the constitution prior to performing their functions in the Council.

#### **Election of Speaker**

- 11 (1) After all Councillors have taken the oath or affirmation, the Council must elect one of its Councillors as the Speaker in accordance with the procedure set out in Section 36 of the Act.
- (2) The Secretary must preside over the elections.

### **Election of Executive Mayor**

- 12 (1) After the election of the Speaker, the Council must elect one of its Councillors as the Executive Mayor in accordance with Section 55 of the Act.
- (2) After the election of the Executive Mayor, the Speaker must inform the Council of the time at which the Executive Mayor will deliver her/his address.

### **Part 3: Official opening of Council and State of the City Address by the Executive Mayor**

#### **Official opening of Council**

- 13 At the official opening of Council each year, the Executive Mayor must deliver the State of the City Address which must occur at any time after the State of the Nation and State of the Province Address, however prior the end of the financial year.

#### **Debate on the State of the City Address by the Executive Mayor**

- 14 The Executive Mayor's Address must be debated within (seven) 7 days after the Executive Mayor's State of the City address.

### **Part 4: Ordinary, Extra-ordinary and Special Council Meetings**

#### **Ordinary Council Meetings**

- 15 Ordinary meetings are all meetings of Council as per the annual year planner.

#### **Extraordinary Council Meetings**

- 16 (1) The Speaker may call an extraordinary meeting of the Council to conduct business outside the scheduled meetings.
- (2) The Speaker must inform all Councillors of her/his decision to call an extraordinary meeting.

#### **Special Council Meetings**

- 17 Special meetings are those called to conduct ceremonies of Council.

## CHAPTER 3: OFFICE BEARERS AND COUNCILLORS

### Part 1: Office Bearers

#### Speaker of Council -

- 18
- (1) must safeguard the independence of the Council and maintain the authority thereof;
  - (2) is the spokesperson for the Council in its relations with the other arms of government, and with outside institutions and persons. In representing the Council, the Speaker is responsible to the Council and all its Councillors;
  - (3) must ensure that these Rules are observed;
  - (4) must protect freedom of speech and debate in the Council and its Committees;
  - (5) is responsible to the Council for the management of the Council;
  - (6) must discharge her/his responsibilities with integrity and in an impartial way;
  - (7) must ensure public participation, promote democratic debate and protect the rights of all Councillors and political parties represented in Council; and
  - (8) must cast a deciding vote if there is tie of votes on a question.

#### Acting Speaker

- 19
- (1) If the Speaker is absent or not available to undertake her /his duties or needs to be relieved during a meeting, the Chairperson of Committees shall be the Acting Speaker.
  - (2) If both the Speaker and the Chairperson of Committees are absent or not available to undertake their duties for a period of fourteen (14) days, the Speaker shall nominate any of the Chairpersons of the Section 79 Committee to be the Acting Speaker for that period of absence or unavailability.
  - (3) If the Speaker is unable to nominate the Acting Speaker in terms of Rule 19(2) above, either due to an emergency or due to circumstances beyond her/his control, Council must elect another Councillor to act as Speaker in terms of section 36 of the Act. The Secretary to Council must preside over the elections.

#### Election of the Chief Whip of Council

- 20
- (1) The Speaker must call for nominations by forwarding nomination forms to the Whips of political Parties as soon as possible after an election, or within 10 days in the case of a vacancy occurring.
  - (2) Political parties may submit nominations to the Speaker at any time before the next scheduled Council meeting.
  - (3) The Speaker must announce the received nominations and proceed to preside over the election and appointment of Chief Whip of Council.

## **Powers and Duties of the Chief Whip of Council**

### **21 The Chief Whip of Council -**

- (1) is responsible for coordinating the Whippery;
- (2) coordinates the deployment of Councillors to various Committees;
- (3) coordinates the allocation of speaking times;
- (4) ensures Councillors' accountability through the Whippery structures;
- (5) is responsible for political interface among parties in the Council;
- (6) must maintain discipline in Council; and
- (7) must discharge his/her responsibilities with integrity and in an impartial way.

## **Election of the Chairperson of the Committee of Chairpersons (Chair of Chairs)**

- 22 (1) The Speaker must call for nominations by forwarding nomination forms to the Whips of political Parties as soon as possible after an election, or within 10 days in the case of a vacancy occurring.
- (2) Political parties may submit nominations to the Speaker at any time before the next scheduled Council meeting.
- (3) The Speaker must announce the received nominations and proceed to preside over the election and appointment of Chairperson of Committees.

## **Powers and Duties of Chairperson of the Committee of Chairperson (Chair of Chairs)**

### **23 The Chairperson of the Committee of Chairpersons -**

- (1) presides over the Chairpersons Committee;
- (2) is a member of the Programming Committee;
- (3) oversees the implementation of policy with regard the coordination and management of the work of section 79 Committees.; and
- (4) must guide and ensure that section 79 Committees perform their oversight responsibility, and intervene where necessary.

## **Election of Section 79 Committee Chairpersons**

- 24 (1) The Speaker must call for nominations by forwarding nomination forms to the Whips of political Parties, as soon as the Executive Mayor establishes executive portfolios, or within 10 days in the case of a vacancy occurring.
- (2) Political parties may submit nominations to the Speaker at any time before the next scheduled Council meeting.
- (3) The Speaker must announce the received nominations and proceed to preside over the appointment and / or election and appointment of chairperson(s).

## **Powers and Functions of Committee Chairpersons**

- 25 (1) A Committee Chairperson -
- (a) presides at meetings of the Committee;
  - (b) represents the Committee on the Committee of Chairpersons;
  - (c) determines the agenda of each meeting of the Committee;
  - (d) performs the functions, tasks and duties and exercises the powers that the Committee, as per resolutions of the Council may assign to the Chairperson;
  - (e) must cast a deciding vote if there is a tie of votes on a question; and
  - (f) may act in any matter on behalf of and in the best interest of the Committee when it is not practical to arrange a Committee meeting to discuss the matter, if the matter concerns -
    - (i) a request by a person to give evidence or make an oral representation to the Committee;
    - (ii) any other request to the Committee; or
    - (iii) decisions or the initiation of any steps necessary for the Committee to perform its functions or exercise its powers; and
  - (g) may delegate one of the members of the Committee, in writing, to act as Chairperson.
- (2) A Committee may set aside any decision taken by its Chairperson in terms of sub-rule (1) (f).

## **Absence of Chairperson**

- 26 (1) In the absence of the Chairperson, the Committee must elect one of its members to act on behalf of the Chairperson only for the duration of the meeting. The Committee secretariat is to facilitate the election process.
- (2) Where a chairperson is aware that he/she will be absent or unavailable to perform his/her duties as chairperson, such chairperson must inform the Speaker and the Chairperson of Committees of such absence.

## **Appointment of Leader of Executive Business**

- 27 As soon as possible after an election or whenever the position of Leader of Executive Business is vacant, the Executive Mayor must appoint a member of the Mayoral Committee as Leader of Executive Business in Council and inform the Presiding Officer of the appointment.

## **Leader of Executive Business**

- 28 The Leader of Executive Business is responsible for managing the interface between the Executive and the Council Legislature.

## Part 2: Councillors

### Councillors' attendance

- 29
- (1) Councillors must attend each obligatory (Section 79 and Council) meeting of the Council and the relevant Committees unless they request for leave of absence at least 24 hours before the meeting or exceptional circumstances exist, or that the Councillor is required to withdraw in terms of the Code of Conduct for Councillors in the Systems Act. For Council, such requests are to be put to the Presiding Officer and for Committee meetings to the Chairperson.
  - (2) On good cause shown, the Speaker, in the case of a Council meeting, or the Chairperson of a section 79 Committee may condone the late submission of an apology, however, apologies not in writing shall not be condoned or accepted, save where exceptional circumstances exist.
  - (3) A Councillor who is absent, without apology, from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that Councillor is required to attend, shall be presumed to be in contempt in accordance with these Rules, and in accordance with item 4(2) of the Code of Conduct for Councillors. Provisions of item 13 and 14 of the Code of Conduct for Councillors shall be applicable.

### Conduct of Councillors during a Council or Committee Meeting

- 30 When attending to the business of the Council, and Committee meetings, Councillors -
- (1) must conduct themselves in a way that demonstrates respect for the Council, Committee Chairpersons and other Councillors;
  - (2) must conduct themselves in compliance with the Code of Conduct for Councillors and in accordance with the provisions of these Rules;
  - (3) must not distribute any material other than the agenda, speakers list, urgency reports, Motions, amendments to reports and minutes of meetings of the Council prior to the commencement of or at meetings of the Council unless the Speaker has approved the distribution of such material;
  - (4) must be identified at all times and wear a name badge in instances where a Councillor acts in her/his official capacity as a Councillor of the City of Johannesburg;
  - (5) must not use photographic equipment, recording devices and other multimedia devices and unless they are on silent mode and only for the purpose of the meeting and in line with applicable legislation;
  - (6) must not walk between the Presiding Officer and a Councillor who is speaking;
  - (7) must not walk in front of the Presiding podium or approach the presiding podium;
  - (8) must not engage in conduct or behaviour that disturbs the proceedings;

- (9) A request to the Presiding Office to adjourn the meeting of Council to allow for caucus shall only be put to the Presiding Officer by the Party Whip and/or the Leader of any of the Political Parties represented in Council or their nominees.

#### **Dress Code for Councillors**

- 30A When attending to the business of Council, and Committee meetings, Councillors must dress in a formal lounge suit and/or jacket and tie, religious or traditional wear or such other dress befitting the formal nature of Council or its Committees and must not wear any political party symbols and/or insignia.

#### **Councillors' right of access to documents**

- 31 (1) Every Councillor has the right to examine any document tabled in the Council, including any of its Committees and to receive a copy of that document upon submitting a written request to the Speaker of Council.
- (2) A Councillor must not reveal the contents of any document supplied under 31(1) above, if that document that has been withheld from the public under applicable legislation.
- (3) Council Agendas and all documents dispatched provided to Councillors prior to a formal meeting remain confidential and must not be shared with third parties unless such have been formally dispensed with in Council.
- (4) Documents considered in committee shall at all circumstances be treated with confidentiality. Councillors may be requested to affirm confidentiality by signing non-disclosure agreement(s).

#### **Exclusion of Councillors Publishing or Disclosing Documents**

- 32 (1) Any Councillor who publishes or discloses or causes to be published or disclosed any document or record of the Council or the proceedings of any Committee of the Council or of a Committee of the whole Council relating to any purchase or expropriation of land or other property by the Council or any legal or arbitration proceedings in which the Council is concerned, or the agenda or minutes or document or records, or any part thereof, of the Council in Committee or of the Mayoral Committee or another Committee of the Council, or any matter the publication or disclosure of which would or might be prejudicial to the interests of the Council, shall rebuttably be presumed to be in contempt of Council, and may be subjected to Ethics Committee processes in accordance with Chapter 11 of these Rules.
- (2) Where a document or record of Council exposes corruption or a councillor is of the view that corruption may be involved, the Councillor must refer the matter to the Speaker of Council for investigation.

## Disclosure of Financial Interests

- 33 (1) A Councillor wishing to disclose a financial interest in terms of Item 5(1)(b) of the Code of Conduct for Councillors in Schedule 1 of the Systems Act, must do so forthwith after the item or motion in respect of which such interest exists, has been called.
- (2) No Councillor must speak for more than five minutes on the question of whether her/his financial interest as contemplated in sub-rule (1) is so small or remote as to render a clash of interests unlikely, unless the Speaker allows her/him to continue her/his speech for a further five minutes.
- (3) The speech contemplated in sub-rule (2) must not for the purposes of this section be regarded as a speech on the recommendation, motion or proposal under debate.

## CHAPTER 4: THE EXECUTIVE ARM OF COUNCIL

### Appointment of the Executive Arm of Council

- 34 When the Executive Mayor appoints or dismisses Members of the Mayoral Committee, she/he must inform the Speaker in writing within 7 days who is to announce the appointment or dismissal in the next Council meeting.

### Duties of Members of the Mayoral Committee to the Legislature

- 35 (1) Every member of the Mayoral Committee must submit to the Legislature -
- (a) Quarterly reports on the performance of Departments and Municipal Owned Entities within 60 days from the end of the quarter. Quarterly reports must include:
    - (i) a section which shows by Ward number (in numerical order) a progress report on planned activities and services provided in that ward, and where applicable the community based plans the Department/MoE is responsible for delivering;
    - (ii) a section which shows by Region, a progress report on all CAPEX programmes and new service provision that cannot reasonably be identified by Ward;
    - (iii) all community input into participatory processes, received within the previous quarter and the response of the Department/MoE on each input;
    - (iv) the Department's/MoE's head quarterly ADBS progress report;
    - (v) a breakdown of all reported service delivery failures recorded in the quarter, by type, the number outstanding at the end of the quarter and the average time taken to close said failure; and
    - (vi) budget spent against annual budget.
  - (b) Annual reports on the performance of Departments and Municipal Owned Entities, within 60 days from the end of the financial year. The annual reports must include:
    - (i) a section which shows by Ward number (in numerical order) progress on the implementation of services provided in that ward, against the applicable community based plans (CBPs) and business plans, including targets and indicators;
    - (ii) a section which shows by Region, a report on all CAPEX programmes and new service provision that cannot reasonably be identified by Ward;
    - (iii) all community input into participatory processes, received within the financial year and the response of the Department/MoE on each input;
    - (iv) the Department's/MoE's head annual ADBS report; and
    - (v) a breakdown of all reported service delivery failures recorded in the financial year, by type, the number outstanding at the end of the financial year and the average time taken to close said failure.

- (c) Any other report requested by Council or a Committee of Council, unless prescribed otherwise by the Committee.
- (d) A suite of planning documents to accompany the annual budget, which must include:
  - (i) a section which shows by Ward number (in numerical order) the planned activities and services provided in that ward, and where applicable the community based plans the Department/MoE is responsible for delivering;
  - (ii) a section which shows by Region, all CAPEX programmes and new service provision that cannot reasonably be identified by Ward; and
  - (iii) all community input into participatory processes, received within the annual cycle and the response of the Department/MoE on each input.
- (2) Every member of the Mayoral Committee must ensure that a reply is given to every question put to her/him by Council, a Councillor or a Committee.
- (3) When the Legislature or any of its Committees bring a matter to the attention of the Member of the Mayoral Committee or a Councillor, the Member of the Mayoral Committee or the Councillor must submit a response to the Legislature or Committee within the stipulated time, if a response is required. The receipt of the responses must be tracked by the Legislature and follow-up letters sent to the relevant Member of the Mayoral Committee or a Councillor if a reply wasn't received within the set timeframes.
- (4) The relevant Oversight Committee, upon receipt of responses from a Member of the Mayoral Committee (as per sub-rules (2) and (3) above), must determine if the response is satisfactory, and inform Council accordingly.

#### **Matters affecting Members of the Mayoral Committee**

- 36 (1) When the Legislature or any of its Committees brings a matter to the attention of the Member of the Mayoral Committee, it must indicate -
  - (a) whether or not it requires a response from the Member of the Mayoral Committee; and
  - (b) that, where a response is required this must be within 30 days, unless otherwise stipulated by the Committee.
- (2) The Speaker to Council must send any resolution affecting the Member of the Mayoral Committee to the Executive Mayor within 7 days of the Council meeting.

#### **Return on Implementation of Decisions of the Council**

- 37 (1) The Executive Mayor must report on a quarterly basis on the implementation of all Council resolutions. The Agenda of the meeting of the Council must include a return showing the status of the implementation of each decision of the Council that has not yet been reported as having been finalized on the afore-going schedule.

- (2) On the recommendation of a Committee, Council may pronounce appropriate measures to be taken by the Executive Mayor in the case of consistent failure to implement decisions of Council.
- (3) The Executive Mayor must report back at the next Council meeting on measures taken and the outcome thereof.
- (4) Council shall reserve the right to give final pronouncement on what further steps should be taken, if measures taken under sub rule (2) above prove ineffective.



## CHAPTER 5: OPENNESS AND PUBLIC PARTICIPATION

### Part 1: General

#### Public access

- 38 (1) The Council meetings must be open to the public, including the media.
- (2) The Speaker must inform the public of the proceedings of the Council and its Committees by publishing in the press, on the website and other appropriate media, details of the time and place of meetings.

#### Regulating public access

- 39 (1) The Council must take reasonable measures to regulate public access, including access by the media.
- (2) The regulation of public access to the precincts of the Council, subject to these Rules, is the responsibility of the Speaker.
- (3) In the interest of security or to prevent any disruption of proceedings, the Council may provide for any person to be searched and refuse entry to or remove any person.
- (4) A Committee may exclude the public, including the media and officials, from a meeting only when it is reasonable and justifiable to do so in an open and democratic society.
- (5) Circumstances in which it is reasonable and justifiable to exclude the public from a Committee meeting may, but must not necessarily, occur when the Committee is considering a matter that -
- (a) should be discussed behind closed doors to avoid prejudicing a person unfairly; or
- (b) is confidential in terms of legislation.

#### Conduct of members of the public (including media)

- 40 (1) When Council is in session, use of photographic equipment, recording devices and other multimedia devices and gadgets including but not limited to cameras, cellular phones and tablets is prohibited, unless with the prior authorization of the Presiding Officer. Laptops, tablets and other gadgets may only be used on silent mode, while maintaining Council decorum, only for the purpose of the meeting and in line with applicable legislation.
- (2) Members of the public attending the Council or a Committee meeting may not disrupt proceedings and must observe the directions of the presiding officer of the Council or a Councillor chairing the Committee meeting.
- (3) Members of the public have observer status, unless indicated otherwise by the Presiding Officer of the Council or a Councillor chairing the Committee meeting,

- (4) The presiding officer of the Council or a Councillor chairing a Committee meeting can instruct a person to leave the precincts of the Council when he or she disrupts proceedings or is otherwise involved in any misconduct.
- (5) Security personnel may remove members of the public from the precincts of the Council if they -
  - (a) do not withdraw from a meeting or leave the precincts of the Council on the instruction of the presiding officer of the Council or a Councillor chairing a Committee meeting;
  - (b) have entered any part of the precincts which has been set aside for Councillors only;
  - (c) interrupt proceedings or are otherwise involved in misconduct; or
  - (d) are a threat to the security of Councillors or other persons present.

#### **Dress Code for Members of the Public and the Media**

- 40A (1) When attending a Council or a Committee meeting, members of the public, including the media, must be dressed appropriately and must not wear any political party gear, symbols and/or insignia.
- (2) The Speaker or the Chairperson of a Committee shall use his/her discretion in Council if members of the public are dressed inappropriately and make a ruling.

#### **Public access to records and documents**

- 41 (1) The records of the Council and its Committees and all documents tabled in the Council and its Committees must be accessible to the public and the media.
- (2) A decision to withhold records or other documents from the public may be made under this rule only and must be compatible with the protection of freedom to information in the Constitution and the Promotion of Access to Information Act, 2 of 2000.
- (3) The Council may, by resolution, order that documents referred to in sub-rule (2) may not be made public.
- (4) Notwithstanding sub-rule (1), the following documents may not be made public unless they have been tabled in the Council or the Speaker has given permission for them to be made public:
  - (a) the proceedings of, or evidence taken by or placed before, a Committee while the public were excluded from the meeting, in accordance with applicable legislation and these Rules;
  - (b) any report, or summary or record of proceedings, or evidence referred to in (a).
  - (c) any document presented to the Committee as a confidential document and declared confidential by the Committee; or
  - (d) any document that the Chairperson declares confidential before it is submitted to members of the Committee.

- (5) A Committee may resolve to request the formal written consent of the Speaker to not include information listed in sub-rule (4) in respect of a Committee report.

#### **Public Access to Council and its Committees**

- 42 (1) Council and all Committees of Council shall be open to the public and media subject to Section 20(1) of the Systems Act and other applicable rules.
- (2) The Presiding Officer shall make every effort to facilitate access including the relocation of a meeting to an appropriate venue, especially with respect to access for disabled persons and the anticipated interest in the Committee's agenda. Access may however be restricted in terms of the relevant sections of the Health and Safety Legislation.

#### **Public Access and Participation in Committees**

- 43 (1) Any member of the public and any institution or organisation may request to appear before, or may make a written submission to, a Committee with regard to a particular matter.
- (2) Any member of the Public who has made a written submission to a Committee of Council may request through the Chairperson of the Committee of Council to make a verbal submission of not more than 10 minutes to the Committee on the same subject.
- (3) A Committee of Council may ask questions of any member of the public making a verbal submission to said Committee.

#### **Assistance for public participation**

- 44 In order to provide effective opportunities for public participation, the Secretary to Council may, within available resources, assist a person to -
- (1) formulate a written submission to a Committee;
- (2) appear before a Committee; or
- (3) present a verbal submission to a Committee.

### **Part 2: Petitions**

#### **Right to petition**

- 45 (1) A member of the public has the constitutional right to petition the Council.
- (2) The right to petition the Council must be exercised in accordance with the Petitions Policy.

### **Submission of petition**

- 46 (1) A petition must be submitted to the Speaker of Council in writing and in the form prescribed by the Petitions Policy.
- (2) All petitions that meet the requirements of the Policy must be referred to the Petitions Committee.

### **Assistance for petitions**

- 47 Where a petition does not meet the form prescribed by the Petitions Policy, assistance shall be provided by the Secretary to Council to the petitioners to ensure that the requirements are met.

### **Consideration of petitions**

- 48 (1) The Petitions Committee must consider all petitions that are properly submitted in terms of the Petitions Policy.
- (2) The Committee may use all the powers allocated to it to facilitate a conclusion to a petition in terms of the Petitions Policy.
- (3) The Chairperson of the Petitions Committee must regularly inform the petitioner of the receipt of, progress and decision relating to the said petition and of any other action taken by the Committee, in terms of the Petitions Policy.

### **Reports of Petitions Committee**

- 49 (1) The Petitions Committee must submit quarterly and annual reports to the Council in accordance with these Rules.
- (2) The quarterly and annual report must -
- (a) set out the activities of the Committee and the time taken to respond to petitions received;
  - (b) include an assessment of the effectiveness of the petitions process and procedures;
  - (c) include an assessment of each Member of the Mayoral Committee cluster's performance with respect to petitions received and an evaluation of trends; and
  - (d) include a summary of petitioners' perceptions of the petitions process and procedures.

## **CHAPTER 6 MEETINGS OF COUNCIL**

### **Part 1: General**

#### **Meetings of the Council**

- 50 (1) In terms of section 18(2) of the Act, the Council must meet at least quarterly.
- (2) In terms of section 29(1) of the Act, the Speaker decides where and when the Council meets, subject to sub-rule (1) above. However if a majority of the Councillors request the Speaker in writing to convene a meeting of the Council to debate any matter, except a matter contemplated in Chapter 2 Part 1, 2, and 3, and subject to Chapter 2 Part 4, the Speaker must convene a meeting as per the request.
- (3) The Speaker may convene ordinary, special and extraordinary meetings.
- (4) The quarterly meetings in terms of sub-rule (1) and such further meetings as the Speaker may determine, except those meetings specified in Chapter 2, must be conducted as ordinary meetings at which the order of business must be stated.

#### **Order at beginning of meeting**

- 51 (1) All Councillors are to be seated 10 minutes prior to the starting time of Council.
- (2) Following announcement of the Presiding Officer, all Councillors and officials must rise when the Presiding Officer enters the Chamber at the beginning of a meeting and must remain standing quietly until instructed by the Presiding Officer to be seated, following individual silent prayer/meditation anticipated in Rule 52 below.

#### **Prayer and meditation at beginning of meeting**

- 52 At the commencement of each plenary meeting of the Council, the Presiding officer must request a moment of silence to allow for individual prayer and/or meditation.

#### **Congratulations and Condolences**

- 53 At the commencement of each plenary meeting of the Council, and where applicable, the Presiding officer shall read-out congratulations or condolences.

#### **Members of the Mayoral Committee (MMC) notice of leave**

- 54 (1) A Member of the Mayoral Committee must apply for leave from a Council meeting to the Presiding Officer in writing, authorizing another MMC to take charge of her/his matters on the Council agenda.
- (2) Such notice must be given in writing twenty four (24) hours prior to the Council meeting.

## Notice of Meetings

- 55 (1) Notice of the time and place of every ordinary meeting of the Council must be served on every Councillor either personally and or electronically or by leaving the notice at his /her usual place of residence or place of business, at least 3 calendar days before such meeting takes place.
- (2) Such notice may be signed by the Presiding Officer.
- (3) The accidental omission to serve such notice on any Councillor referred to in sub-rule (1) shall not affect the validity of any meeting.
- (4) The notice in terms of sub-rule (1) must set out the business to be considered at a meeting for which such notice has been given and where practical all agenda items to be considered at the meeting.
- (5) The Secretary to Council must motivate to the satisfaction of the Speaker where the agenda, or any part thereof, could not be distributed within the period prescribed in sub-rule (1) above.

## Attendance Register for Council Meetings

- 56 Every Councillor attending a meeting must sign her/his name in the attendance register, which must be made available for this purpose at least 2 hours prior to the commencement of a Council meeting.

## Quorum

### Quorum at beginning of the meeting

- 57 (1) If, at the expiry of 20 minutes after the time set in the Notice in terms of Rule 55 for the commencement of a Council or Committee meeting a quorum is not constituted, the meeting shall be adjourned, unless it is decided, with the unanimous consent of the Councillors present, to allow for further time not exceeding 10 minutes, in order to enable a quorum to be present.
- (2) No resolution may be passed in the event of a lack of quorum.

### No Quorum during Meeting and adjournment

- 58 (1) If during any meeting, the attention of the Speaker is called to no quorum during the meeting, Councillors present must be counted and if it is found that there is no quorum, the Speaker must cause the call bell to be rung for at least three (3) minutes. If after an interval of five minutes there is still no quorum, the Speaker must forthwith adjourn the meeting.

- (2) Business not disposed of at a meeting adjourned in terms of sub-rule (1) must be dealt with at a meeting convened by the Speaker for this purpose, or may be held over until the next ordinary meeting.

### **Informal Session**

- 59 (1) When a meeting is adjourned, notice of the adjourned meeting must be reflected in the Minutes of Proceedings.
- (2) No formal business shall be transacted at an adjourned meeting.
- (3) A meeting may be adjourned to allow the Council to go into an informal session at the discretion of the Speaker. The duration of such session must be determined by the Speaker. A resolution formulated at an informal session must be read out for adoption once the Council reverts to formal session.

### **Order at adjournment**

- 60 Officials and members of the public are to remain standing until the Speaker, followed by the Executive Mayor and Councillors have left the Council Chamber.

### **Return of Attendance of Meetings**

- 61 (1) The Secretary to Council must for the first six months of a term of office of the Council after a general election and for each subsequent period of six months thereafter, as soon as possible after the expiry of each such six monthly period, submit to the Council and include in the agenda of the meeting of the Council a return showing the attendance of each Councillor at meetings of the Council and its Committees.
- (2) The Secretary to Council must include in the return under (1) above, explanatory notes with reference to Rule 29 and the relevant provision(s) insofar as it relates to the specific Councillors' circumstances.

## **Part 2: Arrangement of business**

### **Business of the Council and Council Agenda**

- 62 (1) The Programming Committee, must determine all business of the Council in accordance with these Rules.
- (2) The Presiding Officer must ensure that all business of the Council is placed on the Agenda.
- (3) At each meeting, the Council conducts its business in the order shown on the Council Agenda unless -
  - (a) the Council decides otherwise in accordance with these Rules;



- (b) the Presiding Officer decides otherwise after consultation with the Leader of Executive Business and the Chief Whip; or
  - (c) the rules allow otherwise.
- (4) Those matters on the Council Agenda not dealt with by the end of the political term, shall either lapse or be carried-over to the new Council by resolution of Council, subject to ratification.

#### Speaking time in debates

- 63
- (1) For each debate, and 24 hours before the Council meeting, the Whippers must submit to the Speakers Office a list of Councillors who are to speak in the debate and the order in which they are to speak.
  - (2) In compiling the speakers' list, the Whippers must ensure that all parties represented in the Council have an opportunity to participate in proceedings in a manner consistent with democracy.
  - (3) The speaking list shall be distributed or made available at the beginning of every Council meeting.
  - (4) Parties are to be allocated time in accordance with Council Policy.
  - (5) The Executive Mayor may not be restricted in regard to the length of time that he/she may speak.

#### Urgency Reports

- 64
- (1) Upon submission of a written motivation of urgency, at least 2 hours before a Council meeting, the Speaker may allow urgency reports to be tabled in Council, however, only if in the Speaker's opinion the contents of such Reports:
    - (a) do not require the oversight and concurrence of the Section 79 Oversight Committee(s); or
    - (b) are not substantive.
  - (2) In the interests of justice, democracy and good governance, Parties shall be allowed time to collectively discuss the Urgency Report(s) before the Report(s) is/are put to a vote.
  - (3) In the case of an exceptional circumstance and acquiesced by the Speaker of Council a report may be tabled which can retrospectively be considered by the oversight committee.

**Statements by Members of the Mayoral Committee, Chairperson of the Committee of Chairpersons, Section 79 Committee Chairpersons and the Chief Whip of Council**

- 65 (1) A Member of the Mayoral Committee, Chairperson of the Committee of Chairpersons, Section 79 Committee Chairpersons and the Chief Whip of Council may make a statement in the Council with regard to a matter falling under their responsibility, upon submission of written notice to the Speaker at least one day before the beginning of the meeting.
- (2) The Member of the Mayoral Committee Chairperson of the Committee of Chairpersons, Section 79 Committee Chairpersons and the Chief Whip of Council may make up to two statements per meeting and may speak for up to five minutes per statement, unless otherwise decided by the Speaker of Council.
- (3) Only two statements per meeting shall be allowed.
- (4) Statements by Members of the Mayoral Committee Chairperson of the Committee of Chairpersons, Section 79 Committee Chairpersons and the Chief Whip must be accommodated under Official Notices and Statements on the Council agenda.

**Part 3: Rules of debate**

**Free speech**

- 66 The Presiding Officer should ensure that Councillors are allowed to speak and debate freely in the Council subject to these Rules.

**Precedence of Presiding Officer**

- 67 The Presiding Officer's right to speak takes precedence over the right of other Councillors to speak.

**Councillors called to speak**

- 68 A Councillor may address Council only when called or noted by the Presiding Officer.

**Conduct of Councillors speaking**

- 69 Councillors must rise and address the Presiding Officer when speaking in a debate unless they are unable to do so.

**Rules of debate**

- 70 (1) Councillors may not -
- (a) discredit the Council by using disrespectful and offensive language;

- (b) refer to proceedings in Committee meetings that were closed to the public until those proceedings are reported to the Council;
  - (c) refer to any other Councillor by that Councillor's first name or names only;
  - (d) comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts;
  - (e) comment upon matters that are irrelevant or a misinterpretation to the matter under discussion;
  - (f) repeat arguments; or
  - (g) anticipate the discussion of a matter appearing on the Council Agenda.
- (2) When a Councillor persists in irrelevance or repetition of arguments, the Presiding Officer must call attention to the conduct of the Councillor and may then direct the Councillor to stop her/his speech.
- (3) In determining whether a Councillor is out of order on the grounds of anticipating the discussion of a matter appearing on the Agenda, the Presiding Officer must take into account whether the matter is likely to be discussed in the Council within a reasonable time.

#### Interruption

71 Councillors may interrupt a Councillor who is speaking in a debate only to

- (1) raise a point of order;
- (2) stand on a point of personal explanation; or
- (3) call attention to the presence of an unauthorized person.

#### Points of order

- 72 (1) A Councillor may raise a point of order to call the attention of the Presiding Officer to a breach of the rules governing procedure or conduct of Councillors during a council meeting.
- (2) The Presiding Officer must first recognize the Councillor intending to raise a Point of Order.
- (3) When a point of order is raised during a debate, the Councillor who is speaking must stop speaking and resume her/his seat.
- (4) After the point of order has been stated, the Presiding Officer may immediately make a ruling on the Point of Order or defer such ruling to a later time in the meeting, or to the next ordinary sitting.
- (5) A Point of Order may not be debated by the assembly.
- (6) A Point of order must be raised as soon as the alleged breach of order has occurred, failing which, the presiding officer must dismiss the appeal as untimely.
- (7) A point of order may not be raised when the Presiding Officer is:
- (a) dealing with disorder;

- (b) addressing the house; or
- (c) is on the floor.

#### **Ruling of the Presiding Officer**

**72A** A ruling by the Presiding Officer shall be final and binding and shall not be debated by the Assembly but may be referred to the Rules Committee for interpretation at the request of any Councillor aggrieved by such ruling.

#### **Point of personal Explanation**

- 73**
- (1) A Councillor may request the Presiding Officer's permission to explain a misinterpreted matter of which he or she personally raised in Council.
  - (2) The Councillor must confine the explanation strictly to the personal matter and may not speak for more than two minutes.
  - (3) The explanation may not be debated.

#### **Reply to a debate**

- 74**
- (1) The Councillor in charge of an item on the Agenda may reply to the debate on the matter.
  - (2) A reply to a debate closes the debate.

### **Part 4: Order in meetings**

#### **Maintaining order**

- 75** The presiding officer in the Council or a Councillor chairing a Committee meeting must maintain order in meetings.

#### **Respect for Presiding Officer**

- 76** In the Council every Councillor, all officials and observers must bow to the Presiding Officer when entering or leaving the Chamber during a Council meeting.

#### **Councillor ordered to withdraw**

- 77**
- (1) The Councillor presiding over the Council or chairing a Committee meeting may order a Councillor to withdraw immediately from a meeting for the remainder of that meeting or a shorter period if she or he is of the opinion that -
    - (a) the Councillor is deliberately contravening a provision of the Rules;



- (b) the Councillor is in contempt of or disregarding the authority of the Councillor presiding over the Council or a Councillor chairing the Committee meeting; or
  - (c) the Councillor's conduct is grossly disorderly.
- (2) An order to withdraw must be recorded in the Minutes of Proceedings, and may be enforced by security personnel at the instruction of the Presiding Officer

#### **Withdrawal of statements made in Council or Committee meeting**

- 77A The Speaker, in the case of Council meeting or the Chairperson in the case of a Committee of Council, shall have the power to order any councillor to withdraw any statements uttered in a Council or Committee meeting, if the statement is found to contravene the provisions of Rule 70.

#### **Serious contravention by a Councillor**

- 78 If the Councillor presiding over the Council or a Councillor chairing a Committee meeting thinks that a contravention committed by a Councillor is so serious that an order to withdraw is inadequate, he or she may refer the matter to the Ethics and Disciplinary Committee for an investigation in accordance with item 13 and 14 of the Code of Conduct for Councillors.

#### **Expression of regret**

- 79 (1) If a Councillor who has been ordered to leave the meeting expresses regret immediately, orally or in writing to the Speaker or the Councillor chairing a committee meeting, and the Speaker or the Councillor chairing a meeting approves such expression of regret, the Speaker or the Councillor chairing a committee may discharge the order to leave and permit the Councillor to take his/her seat.
- (2) Where the Speaker or the Councillor chairing a committee meeting does not approve of the expression of regret, Rule 77 applies.
- (3) The Speaker or the Councillor chairing a committee meeting must announce an expression of regret received, and his/ her ruling on it to Council and it must be recorded in the Minutes of Proceedings.

#### **Grave disorder**

- 80 In the event of grave disorder in the Council or at a meeting of a Committee, the Councillor presiding over the Council or a Councillor chairing the Committee meeting may adjourn the meeting or suspend proceedings for such period as he or she deems necessary.

## Part 5: Decisions and voting

### Decisions postponed

- 81 (1) When the debate on a recommendation has been concluded, the Presiding Officer may postpone the decision of the item until a time determined for such decision.
- (2) When the decision on a matter before the Council involves more than one item, the Presiding Officer may postpone the decision on each item until debate on all items has been concluded.

### Questions put

- 82 The question to be decided must be put by the Presiding Officer and, if it is not heard or understood, the Presiding Officer must put it again.

### Declaration of Vote

- 83 (1) The Presiding Officer may at any time after a question has been fully put, permit one member of each political party to state on behalf of her/his party, in a speech not exceeding one minute, the reasons why the party is in favour of or against the question.
- (2) A Councillor addressing the Council in terms of sub-rule (1), may read out aloud a written formulation of his/her party's viewpoint, and deliver a signed copy thereof at the Presiding Table for inclusion in the Minutes of the Proceedings.

### Recording of Opposition

- 84 Whenever a question is put by the Presiding Officer, any Councillor may, inform the Presiding Officer that she/he wishes her/his party's opposition on the item to be formally recorded in the Minutes of the Proceedings.

### Voting

- 85 (1) Councillors decide on an item by calling either "Yes" or "No" after the Presiding Officer has put the item.
- (2) Questions before Council are decided on by fifty percent plus one (1) of Councillors present.



## Part 6: Roll call

### Demand for Roll Call

- 86 (1) After a question has been put and the Presiding Officer has indicated whether the "Yes" or "No's" have it, any Councillor may demand a roll call.
- (2) Whenever a roll call is demanded, the Presiding Officer shall, satisfy him/herself that the request is not frivolous and vexatious, by re-putting the item to a vote, which vote shall be by show of hands.
- (3) The Council secretariat shall tally the number of votes received, advise the presiding officer, who shall promptly announce the result. Where the difference in votes is 5 hands, or less, roll call procedure in accordance with Rule 91 must be carried out.

### Roll call Procedure

- 87 (1) When a roll call is to take place, the Presiding Officer must order that –
- (a) the bells be rung for five (5) minutes; and
- (b) after the lapse of five (5) minutes, the doors must be locked.
- (2) When the doors have been locked, no Councillor may enter or leave the Chamber.
- (3) The Presiding Officer must re-put the question on whether there is agreement to the item or not
- (4) After the question is put, the Secretary to Council must call each Councillor present to voice "Yes" or "No" on the question, and the responses must be recorded.
- (5) Every Councillor present in the Chamber must vote when the question is put.
- (6) After completion of the roll call, the Secretary to Council must tally the votes, the Whippers confirm the recorded votes and sign the roll-call list.
- (7) The Secretary to Council must hand the signed roll-call list to the Presiding Officer, who must immediately declare the decision on the question.

## Part 7: Council in Committee

- 88 (1) Notwithstanding anything to the contrary in these Rules contained, a Councillor may at any time after an item on the agenda has been called or during consideration thereof, move that the Council resolves itself into Committee in terms of s Section 20 of the Systems Act for further consideration of that item.
- (2) If the Council is in Committee, the provisions of these Rules, except insofar as they are in conflict with this rule, must apply.
- (3) If the Council adopts a resolution in terms of sub-rule (1), the further debate on the item in question, whether in or out of Committee, must for all purposes be deemed to be a continuation of the preceding debate on that item.

- (4) If a proposal in terms of the proviso to sub-rule (1) is carried, the Speaker must determine when the items concerned must be considered and all such items must be considered consecutively.
- (5) At the conclusion of the consideration of items in Committee, the Council must revert to the consideration of further items in open Council.
- (6) When the Council resolves itself into Committee, all members of the public and Council officials, except those officials that the Speaker may require to remain, must leave the Council Chamber and must not return to the Council Chamber for the duration for the proceedings in Committee.



## CHAPTER 7: MOTIONS AND URGENT DEBATES

### Part 1: Motions

#### Nature of Motions

- 89 (1) A Councillor proposing that Council as a deliberative assembly takes a certain action must introduce a motion in accordance with these Rules
- (2) A motion may, among other things, propose that the Council resolves to -
- (a) adopt a report;
  - (b) make a recommendation to the executive;
  - (c) express an opinion;
  - (d) amend a motion before the Council;
  - (e) pass a motion pursuant to a specific section of the Constitution; or
  - (f) censure a person or body.
- (3) A Councillor may move a motion for ordinary debate.

#### Form of Motions

- 90 (1) A motion must be in writing in one of the languages of the Council and must be signed by a proposer and a seconder.
- (2) A motion introduced by the Executive Mayor does not need to be seconded.
- (3) If both the proposer and seconder are absent, then the motion falls away.

#### Procedure for Consideration of a Motion

- 91 (1) The Proposer or seconder shall formally table the motion to Council and may make a brief speech in support of the Motion.
- (2) If the motion is not opposed, it may not be debated and shall immediately be put to a vote by the Presiding Officer.
- (3) If the Motion is not supported, or another Councillor wishes to amend the Motion, such Councillor shall be allowed to speak to the Motion.
- (4) The Proposer or seconder shall close the debate.
- (5) The motion shall then be put to a vote, and where an amendment was proposed, voting shall be in accordance with the procedure in Rule 97.

#### Admissibility of Motions

- 92 A motion is admissible if -
- (1) the matter is not pending before a court of law;
  - (2) it has been submitted within the prescribed time, in accordance with these Rules;

- (3) issues raised, or a substantial portion of issues raised are not pending before a section 79 Committee of Council, or any of the spheres of government;
- (4) it does not seek Council to adopt an unlawful resolution; and
- (5) it is within the jurisdiction and competence of Council.

#### **Motions without Notice**

- 93 (1) Every motion requires notice except a motion -
- (a) proposing an amendment to a motion;
  - (b) raising a point of order;
  - (c) postponing or discharging or giving precedence to an item on the Council Agenda;
  - (d) by the Councillor in charge, proposing a resolution on the report of a Committee immediately after the conclusion of the debate on the report; and
  - (e) for which another rule states that notice is not required.
- (2) To introduce a motion without notice, a Councillor must read the motion out loud in the Chamber and deliver a signed copy to the Secretary to Council.
- (3) The Presiding Officer must put the question to allow or disallow the motion without notice to Council.

#### **Notice of motions**

- 94 (1) A Councillor who wishes to introduce a motion must submit a signed copy of the motion to the Secretary of Council for placing on the Council Agenda fourteen (14) days prior to a Council meeting.
- (2) A Councillor may submit a motion to the Secretary of Council on behalf of an absent Councillor, if she or he has been authorized by the absent Councillor in writing.
- (3) Except when the Rules permit otherwise or when the Speaker has given her/his consent, each motion must be considered by the Programming Committee for admission onto Council agenda.
- (4) If the Council is in recess when a motion is submitted to the Secretary to Council, it must be placed on the next Programming Committee Agenda after recess.

#### **Selection of motions to be considered by Council**

- 95 (1) Unless the Rules provide otherwise, a motion must be selected by the Programming Committee before it is considered by the Council.
- (2) The Programming Committee must consider the selection of the motion for consideration by the Council at its first meeting after the motion was submitted to the Secretary to Council.
- (3) At any time before commencement of debate on a Motion, the Proposer or Seconder of such motion may withdraw the motion by notifying the Speaker or the acting Speaker. There shall be no debate or amendments to a withdrawn motion.

## Amendment of Motions

- 96 (1) A Councillor may propose an amendment to a motion after it has been tabled by either the proposer or the seconder, however, before the Presiding officer puts the motion to a vote.
- (2) No amendment shall be allowed unless there is a Councillor proposing such amendment, and another seconding the proposal.
- (3) Proposed amendment must be in writing, submitted to both proposer and/or seconder and the presiding officer at least an hour before the motion is considered.
- (4) The Presiding officer may disallow a proposed amendment if in his/her opinion such amendment is so substantial in nature that it constitutes a new motion.
- (5) Presiding Officer shall allow either the proposer or seconder of the original motion to close the debate after the proposer or seconder of the amendment has debated at which point they may object to the amendment or concur with it.

## Voting Procedure

- 97 (1) Where an amendment has been proposed in accordance with Rule 96, the presiding officer shall first determine if the amendment passes by putting the amendment to a vote.
- (2) A majority of Councillors present in a meeting must support the amendment, failing which the amendment shall not be carried.
- (3) Where an amendment is not carried, voting shall be on the original motion.
- (4) A majority vote shall be needed to carry or defeat the motion.

## Part 2: Debates on matters of urgent public importance

### Request for debate on a matter of urgent public importance

- 98 (1) A Councillor who wishes the Council to discuss a matter of urgent public importance must make a request to the Speaker in writing in one of the languages of the Council. The Councillor must make the request at least four hours before the beginning of a meeting of the Council.
- (2) The proposer will be allowed to reply/respond to a debate.
- (3) The Speaker may allow a debate on a matter of urgent public importance if it -
- (a) requires the urgent attention of the Council;
  - (b) is within the jurisdiction and competence of Council;
  - (c) is not *sub-judice*; and
  - (d) is factual.
- (4) There may only be one urgent debate on a meeting day, however, the Speaker may allow more than one request depending on the urgency and importance of the matter.

- (5) If the Speaker grants the request, the Speaker must notify the Leader of Executive Business who in turn should inform the Executive Mayor and the relevant member of the Mayoral Committee.
- (6) The Speaker must place the matter on the Council Agenda or, if the matter could not be placed on the Council Agenda, the Presiding Officer must announce it in the Council Meeting.

#### **Debate on matter of urgent public importance**

- 99
- (1) The Speaker must decide when a debate on a matter of urgent public importance must start and the time allocated for it after consultation with the Leader of Executive Business.
  - (2) The Councillor who moves for a debate on a matter of urgent public importance will open the debate and the Executive Mayor or the relevant Member of the Mayoral Committee (MMC) must be allocated time to speak to the debate.



## CHAPTER 8: ORAL AND WRITTEN QUESTIONS

### Questions to Members of the Mayoral Committee

- 100 (1) A Councillor may put questions for oral or written reply to a Member of the Mayoral Committee relating to -
- (a) Council affairs with which the Member of the Mayoral Committee is officially connected; or
  - (b) any matter of administration for which the Member of the Mayoral Committee is responsible.

### Form and content of questions

- 101 (1) Questions must be -
- (a) in writing in one of the languages of the Council; and
  - (b) brief and clearly worded.
- (2) A question must specify whether it is for oral reply or for written reply.
- (3) Questions may not -
- (a) contain offensive, disrespectful and abusive language;
  - (b) express a point of view;
  - (c) break a rule of law;
  - (d) seek only legal opinion;
  - (e) be based on hypotheses, uncorroborated hearsay, arguments or deduction;
  - (f) request comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts;
  - (g) anticipate discussion of a matter appearing on the Agenda; or
  - (h) refer to proceedings in Committee meetings that were closed to the public until those proceedings are reported to the Council; or
  - (i) be excessively technical in nature.

### Grounds for Refusal

- 102 The relevant department may refuse to answer questions if the questions relate to;
- (1) confidential and protected information;
  - (2) matters that are *sub-judice*;
  - (3) a request for excessive documentation; or
  - (4) proceedings in Committee meetings that were closed to the public until those proceedings are reported to the Council.

### Admissibility of questions

- 103 (1) A question is not admissible if it -
- (a) does not comply with the Rules; or
  - (b) seeks information that has been provided in response to a similar question in the previous 6 months.
- (2) The Speaker upon consideration of all surrounding facts and circumstances has a final say on admissibility of questions.

### Placing questions on the Question Paper

- 104 (1) A Councillor who wishes to ask a question must deliver a signed copy of the question to the Secretary of Council for placing on the Question Paper.
- (2) (a) A Councillor may seek the support of other Councillors to ask a question. The names and parties of the supporting Councillors must be recorded on the Question Paper.
- (b) A Councillor who wishes to ask a question with the support of one or more other Councillors must ensure that these Councillors add their signatures to the question before it is delivered to the Secretary to Council.
- (3) A Councillor may deliver a question to the Secretary to Council on behalf of an absent Councillor, if he or she has been authorised by the absent Councillor in writing.
- (4) Each question must be placed on the Question Paper before it can be replied to.

### Scheduling questions

- 105 (1) A questions for oral reply must be placed on the Agenda of Council if received 16 working days prior to the Council Meeting and has been delivered to the Secretary to Council.
- (2) A question for written reply delivered to the Secretary to Council by the close of business 16 days prior to the Council Meeting must be placed on the Question Paper.
- (3) Questions must be placed on the Question Paper in the order in which they are submitted to the Secretary of Council.

### Withdrawal of Questions

- 106 A Councillor who has submitted a question may withdraw it at any time before it is answered by notifying the Secretary to Council in writing. A question that is withdrawn must not be answered.

### Questions for Oral Reply

- 107 (1) Questions for oral reply must be answered at Question Time.
- (2) Question Time is a period of at least 30 minutes during each Council Meeting during which questions placed on the question paper may be put to and answered by Members of the Mayoral Committee except the Executive Mayor.
- (3) The Councillor asking the Question for Oral Reply must be present at the Council meeting to receive the response.
- (4) Questions for oral reply must be dealt with in the order in which they appear on the Question Paper.
- (5) At the end of question time, the Presiding Officer must inform Council of all outstanding questions for Oral Reply.
- (6) Responses to questions standing over from the previous Question Time must be sent to the Secretary to Council within three (3) working days of the said Council meeting.
- (7) There shall be no oral question time during the official opening of Council, during consideration of quarterly reports, during the annual budget speech and vote on the budget, and at special meetings convened by the Speaker.

### Restrictions on questions for oral reply

- 108 (1) If the Presiding Officer is advised that a question for Oral Reply deals with matters of a statistical nature, he/she may decide that the question be placed on the Question Paper for written reply.
- (2) A Councillor may ask up to two questions for Oral Reply at any Question Time.
- (3) Up to four questions for oral reply relating to a particular Department may be put to a Member of the Mayoral Committee at any Question Time.
- (4) Councillors may read their questions but may not read speeches during Question Time.
- (5) Immediately after the Member of the Mayoral Committee has replied to a question, the Councillor who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.
- (6) At the discretion of the Presiding Officer, any Councillor may ask an additional supplementary question or make an additional remark related to the original question or reply.

### Urgent Questions: Oral Reply

- 109 (1) A Councillor who intends to ask an urgent question for Oral Reply must submit a signed copy of the question to the Speaker at least four (4) hours before the meeting of Council.
- (2) The Councillor intending to ask an urgent question must in his/her submission motivate urgency to the Speaker.
- (3) No single Councillor may ask more than one urgent question for Oral Reply.

- (4) The Speaker shall determine the urgency of a question, based on the form and content of questions.
- (5) The Rules regarding the form, content and admissibility of questions apply to urgent questions.
- (6) If the Speaker decides that the question should be answered urgently, he or she must -
  - (a) inform the Leader of the Executive Business; and
  - (b) call upon the Councillor to ask the question immediately after Question Time.
- (7) The Speaker may allow an urgent question if it requires an urgent response from the Members of the Mayoral Committee.

#### **Questions for Written Reply**

- 110
- (1) The relevant Member of the Mayoral Committee must answer a question for Written Reply within ten working days of the question first appearing on the Question Paper.
  - (2) A Member of the Mayoral Committee may, in writing, request of the Speaker more time to answer a question for Written Reply. The request must indicate the reasons required for additional time.
  - (3) The Speaker must decide whether or not to agree to the request.
  - (4) A Member of the Mayoral Committee may decline to answer a question for Written Reply only when such a reply would be too costly or require inappropriate use of Council resources.
  - (5) If the written replies are considered unsatisfactory, these may be sent back to the relevant MMC requesting additional information and/or clarification.
  - (6) The request for clarity or additional information must be responded to within 10 working days.

#### **Restrictions on questions for Written Reply**

- 111
- (1) A Councillor may ask up to three questions for Written Reply per Council meeting.
  - (2) Questions may not have more than five (5) sub-questions.

#### **Questions to the Legislature**

111A Questions to the Legislature must only be in writing.

## Executive Mayor's Question Time

- 112 (1) Executive Mayor's Question Time is a period of up to 30 minutes, quarterly during Council meetings, immediately preceding Question Time, during which questions selected may be put to and answered by the Executive Mayor.
- (2) The Speaker must indicate, based on the provisions of the year planner, the Question Time for the Executive Mayor.
- (3) There shall be no Executive Mayor's Question Time during the Council meetings when the Executive Mayor delivers the opening address, during consideration of quarterly reports and during the vote on the annual Budget.
- (4) (a) A Councillor who wishes to put a question for Oral Reply to the Executive Mayor must deliver a signed request to the Secretary to Council not more than ten working days before the day of the Council meeting before the Executive Mayor's Question Time during which he or she wishes to ask the question. Such a request does not have to include information about the topic or wording of the intended question.
- (b) The Speaker selects at least four (4) questions for the Executive Mayor's Question Time.
- (5) No more than two Councillors of the same party may ask a question during any given Executive Mayor's Question Time.
- (6) A Councillor may ask only one question for Oral Reply at any Executive Mayor's Question Time.
- (7) Councillors may read their question but may not read speeches during the Executive Mayor's Question Time.
- (8) Immediately after the Executive Mayor has replied to a question, the Councillor who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.
- (9) At the discretion of the Presiding Officer, any Councillor may ask an additional supplementary question or make an additional remark related to the original question or reply.

## Questions for written reply for the Executive Mayor

- 112A (1) The Executive Mayor must answer a question for written reply within 10 working days of the questions first appearing on the question paper.
- (2) The Executive Mayor may, in writing, request of the Speaker more time to answer the questions from the written reply.
- (3) Such request in terms of (2) above must indicate reasons.
- (4) The Speaker shall decide whether or not to accept the request.
- (5) The Executive Mayor may decline to answer a question for Written Reply only when such a reply would be too costly or require inappropriate use of Council resources.

## CHAPTER 9: COMMITTEES

### Part 1: General

#### Council Committees

- 113 (1) The Council has the following types of Committees -
- (a) Section 79 Portfolio Committees,
  - (b) Section 79 Standing Committees
- (2) Committees must be established or dissolved by resolution of Council.
- (3) A Committee may establish a Sub-Committee, consisting of members of that Committee only.
- (4) (a) An *ad hoc* Committee may be established to deal with a specific matter and it dissolves when it has reported on that matter.
- (b) An *ad hoc* Committee may consist of members of the Committee and outside experts.
- (c) Experts from outside the Council may not vote in the Committee.

#### Composition of Committees

- 114 (1) The Rules Committee must determine the number of members of a Committee.
- (2) Political parties are entitled to be represented on Committees in substantially the same proportion as the proportion in which they are represented in the Council.
- (3) The Council and parties represented in the Council should, as far as possible, ensure that women are represented on all Committees.
- (4) Non-members and parties that are not represented on a Committee must inform the Chairperson of the Committee of their intention to attend the committee meeting to address a particular matter. The non-member may be granted speaking rights in the Committee but may not vote.

#### Appointment of Committee members

- 115 (1) The Chief Whip of Council in consultation with the Whips of political parties must nominate members of the Committees and submit the nominations to the Speaker.
- (2) The Council must appoint the members of the Committees as soon as possible after the election of the Council or whenever a vacancy arises, on the recommendation of the Rules Committee.
- (3) Alternate members may be appointed for each member of a Committee. An alternate acts as a member when the member for whom the alternate was appointed, is absent or has vacated office.

### Committee Resignations

- 116 (1) A member of a Committee wishing to resign from it, must tender her/his resignation in writing to the Whip of the party of which she/he is a Member and to the Speaker.
- (2) The Speaker must report to the Council every vacancy.

### Combined Committee

- 117 (1) The Speaker may combine two or more Committees to form a new Committee for a specific purpose.
- (2) The Speaker may appoint one of the Chairpersons involved as the Chairperson of the Combined Committee.
- (3) The Combined Committee must report to Council after conclusion of its business.

### Term of Committees

- 118 (1) A Committee continues to exist until the Council is dissolved or its term expires unless the Speaker, with good reason, or the Council resolves that the Committee should be disestablished.
- (2) Despite sub-rule (1), an *ad hoc* Committee and a Combined Committee formed by the Speaker continues to exist until it has completed its business and reported back to Council.

### Powers of Committees

- 119 Every Committee may -
- (1) determine its own procedures, subject to these Rules;
  - (2) determine its annual Programme;
  - (3) consider items referred to it;
  - (4) investigate and report on issues that are referred to it or on its own initiative;
  - (5) exercise oversight of the executive;
  - (6) call for evidence, summon persons to appear before it and require people to produce any documents that it requires;
  - (7) publish an item that is before the Committee for written and oral representations from and comments by the public;
  - (8) hold public hearings;
  - (9) receive submissions from the public;
  - (10) establish Sub-Committees including *ad hoc* technical Sub-Committees; and
  - (11) exercise any other powers granted to it by resolutions of the Council.

### **Matters referred to Committees**

- 120 A matter may be referred to a Committee by the Speaker, Programming Committee or by a resolution of the Council. If there is a dispute about which Committee should deal with a matter, the Speaker must decide.

### **Meetings of Committees**

- 121 (1) The Speaker must convene the first meetings of Committees as soon as reasonably possible after the names of the members appointed to the Committee have been published in the Council Agenda.
- (2) With the consent of the Speaker, a Committee may meet at a venue outside the precincts of the Council.

## **Part 2: Proceedings of Committees**

### **Order in Committee meetings**

- 122 (1) The right to speak of the member chairing the Committee takes precedence over the right of other members to speak.
- (2) Committee members must be allowed to speak and debate freely in Committee meetings but they may not -
- (a) discredit the Council by using disrespectful words;
  - (b) use offensive language; or
  - (c) comment upon the merits of any matter or unsubstantiated matter pending before the Courts in a way that would interfere with the administration of justice or infringe upon the independence of the Courts.

### **Suspension and adjournment of proceedings**

- 123 (1) Only the member chairing a Committee meeting may suspend or adjourn the proceedings of the Committee.
- (2) When a meeting is suspended, the member chairing must decide when the meeting should resume.

### **Joint meetings of Committees**

- 124 (1) A Committee may meet with any other Committee, in order to consider a matter of mutual interest, in consultation with the Speaker.
- (2) The Chairpersons of the Committees involved must determine the agenda for a joint meeting of Committees and who must preside. In the absence of agreement, the Speaker must determine who should chair.

- (3) When a report of the joint meeting is required or when the Committees decide that a report on their joint meeting is necessary, the Committees must decide whether each Committee should write a separate report or whether a joint report would be appropriate.

#### **Vertical meetings between Council and other spheres of government**

- 125 (1) A Committee may meet with other spheres of government in order to consider a matter of mutual interest, in consultation with the Speaker.
- (2) The Chairpersons of the Committees involved must determine the agenda for a meeting.
- (3) Minutes of the meeting must be compiled and distributed.
- (4) The Committee of Council must report back to Council on its interactions with the other spheres of Government.

#### **Attendance at Committees by departments**

- 126 (1) When a Committee requires an official of Council, MOE and Utility to attend a meeting, a request must be made through the relevant MMC who shall ensure attendance by the official.
- (2) The Executive Mayor, The Speaker, any MMC, and any Head of Department may be summoned to appear before a Committee where the committee deems it necessary to do so.

### **Part 3: Committee Reports**

- 127 The following reports must be submitted to Council by Committees –

- (1) Quarterly Oversight Reports within thirty (30) days after referral by the Programming Committee.
- (2) Annual Oversight Reports within sixty (60) days after referral by the Programming Committee.
- (3) Oversight Visit Reports within sixty (60) days after the visit.
- (4) Annual Committee Performance Reports within sixty (60) days after the end of the financial year.

#### **Annual Committee performance reports to the Council**

- 128 (1) The Chairperson should submit an annual report to Council. The Committee's annual report should include an assessment of the way in which the Committee has fulfilled -
  - (a) its oversight responsibilities; and
  - (b) the goals identified in its annual programme.

## Reports on study visits

- 129 (1) Committees must table a report within a month of any study visits that they have undertaken.
- (2) The leader of delegation must ensure that the report is tabled to Council in accordance with (1) above.
- (3) The leader of the delegation may, on approval by the Speaker, request more time to table the report, however the request for extension shall not exceed ninety (90) days.

## Content of report

- 130 (1) Every report of a Committee must reflect the agreement reached in the Committee. In the absence of agreement, the report must reflect the decision of the Committee and dissenting views.
- (2) When there is substantial disagreement on policy issues, a minority report must accompany the Committee report.
- (3) Every Committee report must be set out in the approved report format.
- (4) A minority report must -
- (a) identify clearly the policy issues on which there is substantial disagreement and the reasons for the disagreement;
  - (b) set out the view of the minority on the policy issues; and
  - (c) set out the alternative approach that the minority proposes.
- (5) Every Committee report must -
- (a) Summarise the Committee process including reflecting in the report -
    - (i) the number of meetings held in dealing with the matter;
    - (ii) the extent of involvement and participation by the Administration in the Committee's process, including reflecting the views of the Executive on the matter;
    - (iii) the extent of involvement and participation by the public and primary stakeholders in the Committee's process; including reflecting the submissions or inputs of the public or stakeholders on the matter; and
    - (iv) the degree to which the matter fulfills the City's obligation to promote, advance and fulfill the principles in Chapter 2 of the Constitution (Bill of Rights) and particularly, gender equity and socio-economic rights of the citizens of the City of Johannesburg.
  - (b) Provide a detailed explanation of the position of the Committee on the matter based on among other things, the requirements in sub-rule (5) above.

## **Member in charge**

- 131 A Committee report must be presented to the Council by the Chairperson or, in her/his absence, another member of the Committee.

## **Part 4: Bills and other matters from National or Provincial spheres for Council decision**

### **Referral of matters from Parliament or Provincial Legislature**

- 132 (1) When a bill or any matter affecting local government is introduced or tabled in parliament or the provincial legislature, the Secretary must immediately deliver particulars of the bill or matter and any accompanying papers to the Speaker.
- (2) The Speaker must refer the bill or matter and any accompanying papers to the relevant Committee if he or she believes that the matter is of importance to the City and should be considered by a Committee for its views.
- (3) The Committee to which the bill or matter is referred under this rule, must report back to Council within a time specified by the Speaker in the referral, and must recommend in its report whether Council should take a formal position to -
- (a) support the bill or matter;
  - (b) support the bill with amendments or alternative to the matter;
  - (c) not support the bill or matter; and
  - (d) mandate a suitable Councillor to represent the City's position in the deliberations on the bill or matter at SALGA.
- (4) The report of the Committee on the bill or matter must -
- (a) summarise the Committee process at which the bill or matter was discussed;
  - (b) summarise the participation of the Executive, the public and primary stakeholders;
  - (c) deal in separate sections with the policy and detail of the bill or matter;
  - (d) provide an explanation of the position of the Committee on the bill or matter; and
  - (e) explain in general terms any amendments or alternative being proposed by the Committee on the bill or matter.
- (5) The Speaker must submit to SALGA the resolution of Council and the report of the Committee on the matter as soon as possible.
- (6) The designated Councillor must report back to Council or to the Committee the outcome of the deliberations at SALGA at the next Council or Committee meeting after SALGA's meeting on the bill or matter.

## **Part 5: Terms of Reference of all Committees**

- 133 All Committees of Council shall perform their specific functions as provided for in the Standing Rules and Orders of Council, the Code of Conduct for Councillors and Terms of Reference attached as Schedules 1 and 2 respectively.

## CHAPTER 10: BY-LAW MAKING

### Part 1: General

#### Types of By-laws

134 By-laws may be introduced as:

- (1) An Executive by-law - one that is initiated and introduced by a Member of the Mayoral Committee; or
- (2) A Committee by-law - one that is initiated and introduced by a Section 79 Committee.

#### Terminology

135 All by-laws tabled in Council must be drafted in clear and simple language, and must use as little technical language as possible.

#### Memorandum on By-law

136 Every by-law shall be introduced together with a memorandum and drafted in simple, clear and non-technical language, as far as possible setting out the following -

- (1) Intent of the proposed draft by-law.
- (2) Motivation for the proposed draft by-law.
- (3) The reasons for and the possible effects of the draft by-law in a socio-economic impact statement with due consideration to Chapter 2 of the Constitution on the "Bill of Rights" where applicable.
- (4) Conformity with the Constitution, applicable legislation and policies of Council.
- (5) An environmental impact statement where necessary.
- (6) The financial implications of the draft by-law as well as its implications for the community.
- (7) An account of the steps to enhance public involvement in the development of the draft by-law.

### Part 2: Steps prior to Introduction

#### Executive Draft By-laws

137 As soon as possible and no later than five working days after the Executive has approved the introduction of a Executive by-law, the leader of Executive Business

Must -

- (1) Provide formal notice to the Speaker.
- (2) Supply the Speaker with a copy of the proposed draft by-law and its memorandum.

### **Committee Draft By-Laws**

- 138 (1) A Committee may introduce a draft by-law in Council, through the Programming Committee.
- (2) The Speaker must place the Committee's proposal on the Council agenda for a decision.

### **Resolution to make a draft By-law and referral**

- 139 (1) The Programming Committee must refer the draft by-law to Council for introduction.
- (2) Council must pass a resolution declaring its intention to make a draft by-law.
- (3) The Speaker must refer the draft by-law to the relevant Section 79 Committee/s for consideration.
- (4) In cases where a draft by-law may be affecting the work of more than one Committee, these Committees must confer as per the referral of the Speaker.

### **Part 3: Public Comment and Notice**

- 140 (1) After Council has passed a resolution declaring its intention to make a draft by-law, it must announce its intention to do this by notice in the Provincial Gazette and in one or more newspapers circulating within the jurisdiction of the City of Johannesburg.
- (2) The notice in which the public's comments are invited on a proposed draft by-law must state that -
- (a) comments are invited;
  - (b) what the draft by-law deals with, in summary form;
  - (c) a contact name and address where enquiries may be directed;
  - (d) a place where copies of the by-law can be obtained and where the draft bylaw may be inspected; and
  - (e) the period during which comments may be made (which may not be less than a month) and the place where comments on the draft by-law may be lodged.
- (3) The Committee must consult with relevant interest groups and consider comments and the content of consultations before the draft by-law is made.
- (4) If Council has not made a draft by-law within one year of the announcement referred to in sub-rule 1 above, the draft by-law cannot be made unless the procedure of announcement of the intention is repeated.

### **Consideration of a draft By-law by Committees**

- 141 (1) The Chairperson of the Committee must refer the proposed draft by-law and any accompanying papers in respect of Rule 138 by-laws, to the relevant MMC with a request that she or he submit the views of the Executive, implementation and funding plan of the Executive on the proposed draft by-law to the Committee.

- (2) The Chairperson of the Committee must invite in writing the relevant MMC to the Committee to express the views of the Executive, implementation and funding plan of the Executive on the proposed draft by-law in respect of Rule 137 by-law.
- (3) A Committee to which a draft by-law has been referred, shall have all the powers with regard to the draft by-law and shall follow the public consultation procedures prescribed for Committees in the Rules, unless the Council by resolution determines otherwise.
- (4) A Committee shall consider and deliberate on the draft by-law.
- (5) The Committee must invite public comment and invite stakeholders to attend meetings of the Committee and make representations on the draft by-law.
- (6) At its discretion, the Committee may elect to conduct public hearings on the draft bylaw.
- (7) The Committee must analyse oral and written submissions made on the draft by-law.
- (8) The Committee may amend the draft by-law.
- (9) The Committee may refer the amended draft by-law to the relevant Department for comment.

#### **Part 4: Consideration by Committee and Council**

##### **Report of Committee on referred draft by-law**

- 142 (1) The Committee to which the draft by-law has been referred should report back to Council at the conclusion of its work on the referred draft by-law. The Committee must table in Council -
- (a) its report; and
  - (b) the proposed draft by-law that has been agreed to by it.
- (2) In its report, the Committee over and above the requirements of Rule 130(5) must -
- (a) state whether it recommends to Council approval of the proposed draft by-law with or without amendments, a redraft of the draft by-law or rejection of the draft by-law.
  - (b) In the event amendments are proposed, specify each amendment agreed on by it and each amendment that was considered and rejected by it with accompanying reasons.
  - (c) If it is not a unanimous report -
    - (i) specify in which respects there was no consensus; and
    - (ii) reflect the views of the minority in the Committee.
- (3) The Committee may further report on any matter arising from its deliberations on the proposed draft by-law but which is not necessarily related to the draft by-law.

### **Withdrawal of by-law**

- 143 Only the Committee, to which the draft by-law has been referred, may recommend to Council the withdrawal of a draft by-law.

### **Consideration of a draft by-law by Council**

- 144 The decision and Voting on the Committees report and recommended draft by-law shall be dealt with in terms of the voting provisions in prescribed by these Rules.

### **Publication of by-law**

- 145 Council approved by-law must be published in the Provincial Gazette by the Executive, announcing the coming into operation of the by-law or specifying any other date of the coming into operation of the by-law.

A handwritten signature in black ink, appearing to be 'A. B. C.', is located in the bottom right corner of the page.

## **CHAPTER 11: ETHICS, PRIVILEGE AND CONTEMPT**

### **Part 1: General**

#### **Legislative mandate**

##### **146 The provisions of -**

- (1) Section 161 of Act 108, 1996 (Constitution);
- (2) Section 28 of Act 117, 1998 (Municipal Structures Act);
- (3) Act 1 of 2002 (Gauteng: Privileges and Immunities of Councillors Act); and
- (4) Schedule 1 of Act 32, 2000 (Code of Conduct - Municipal Systems Act), must inform and guide the interpretation and application of the Rules in this Chapter.

### **Part 2: Privilege and contempt**

#### **Ethics of Council**

- 147** The Council must conduct its business in a way that ensures that it is a free and independent institution, able to fulfill its role of representing the public. To do this, the Council and all its members must act in an ethical way and protect the powers, privileges and immunities of the Council.

#### **Privilege of Council**

##### **148 The privileges of members of the Municipal Council include -**

- (1) the privilege of freedom of speech in the Council and any of its Committees conferred by section 1 of the Gauteng Privileges and Immunities of Councillors Act, 2002;
- (2) immunity from liability for civil or criminal proceedings, arrest, imprisonment or damages to the extent conferred by Act 1, 2002; and
- (3) any other privileges or immunities conferred by the Constitution and the Municipal Structures Act.

#### **Contempt of the Council**

- 149**
- (1) Contempt of the Council is conduct which potentially or actually interferes improperly with the ability of the Council, its Committees or any of its members to perform their functions.
  - (2) A breach of privilege is contempt of the Council.
  - (3) Contempts include, but are not limited to -
    - (a) failing to attend Council or its Committee meetings, including when summonsed to do so;
    - (b) failing to report to the Council or one of its Committees when required to do so;
    - (c) giving evidence to Council or any of its Committees knowing it to be false;

- (d) giving someone an inducement not to give evidence to Council or any of its Committees;
- (e) making injurious comments and false statements when speaking in Council or any of its Committees;
- (f) a breach of the Rules, including a breach of the Code of Conduct;
- (g) failing to obey the Presiding Officer's ruling, order and/ or resolution of the Council;
- (h) knowingly and/or recklessly providing materially, factually inaccurate and misleading information to the Council or any of its Committees; and
- (i) The release of privileged information to a source outside of the City.

#### **Procedure for raising contempt or a breach of privilege**

- 150 (1) A Councillor may raise in writing with the Speaker, a matter relating to contempt, including a breach of privilege.
- (2) The matter must be raised as soon as possible, however within the term of office in which the contempt or breach of privilege is alleged to have taken place.
- (3) If a matter raised in writing with the Speaker concerns another Councillor, the Councillor raising the matter must concurrently provide the Councillor against whom the contempt is alleged, with a copy of the document submitted to the Speaker.
- (4) Notwithstanding Rule 150(1), no Councillor shall raise or comment on a matter relating to contempt by another Councillor with the media, any forum or in any other way that may reasonably undermine or compromise the internal mechanisms provided for in this chapter. Councillors shall, however, not be prohibited from commenting on the outcome of a finding into allegations raised in terms of this Rule.

#### **Formulation of the allegation**

- 151 An allegation of contempt must be formulated as precisely as possible, providing but not limited to -
- (1) the name of the Councillor alleging the contempt;
  - (2) the name of the Councillor against whom the contempt is leveled;
  - (3) the nature of the contempt; and
  - (4) the specific rule upon which the allegation is based.

#### **Consideration by the Speaker**

- 152 (1) When a Councillor informs the Speaker of a matter under Rule 150, the Speaker must determine whether contempt is involved.
- (2) In determining whether contempt is involved, the Speaker must take into account the importance of the matter.
- (3) If the matter is technical or trivial and does not warrant the further attention of Council, the matter does not constitute contempt.

### **Speaker's decision**

- 153 If in the opinion of the Speaker, the matter constitutes contempt, she/he must in accordance with Item 13 of the Code of Conduct for Councillors, refer the matter to the Ethics and Disciplinary Committee for processing in accordance with the Committee's Terms of Reference and the Rules in Part 3 below in this Chapter.

### **Part 3: Proceedings of the Ethics and Disciplinary Committee**

#### **Councillor making an allegation not to serve on inquiry**

- 154 A Councillor who has made an allegation of a breach of privilege or of contempt, including an alleged breach of the Code of Conduct, may not serve on an inquiry by the Ethics and Disciplinary Committee into that allegation.

#### **Inquiry**

- 155 (1) The Ethics and Disciplinary Committee may conduct the inquiry on its own or may refer the matter for investigation and reporting back to the Committee on allegations of breach of privilege and/ or contempt against the Councillor.
- (2) In considering the merits of the matter, the Integrity Commissioner must conduct her or his work within the scope of his/her mandate and Terms of Reference.

#### **Rights of an alleged offender**

- 156 (1) The Councillor against whom the contempt is leveled must be granted an opportunity to make representations in person to the Committee.
- (2) The Committee in dealing with the matter must ensure that the inquiry is conducted in accordance with the rules and principles of just and fair administrative requirements.

#### **Evidence**

- 157 (1) The Committee may provisionally admit hearsay evidence if the witness upon whose credibility the probative value of such evidence depends, will personally testify in the proceedings of the Committee at a later stage: Provided that if such witness does not later testify in such proceedings, the hearsay evidence shall be left out of account when the final decision is made.
- (2) Witnesses may testify only to matters that are within their direct and personal knowledge.

## Report of the Ethics Committee

- 158 (1) When the Committee has completed its proceedings on the matter, it must table a report on its findings with recommendations for consideration and decision by Council.
- (2) If the Committee finds that the Councillor concerned has committed a breach of privilege or contempt, the report must recommend an appropriate sanction in accordance with the provisions of Item 14 of the Code of Conduct for Councillors.
- (3) If the Committee considers it necessary and not prejudicial to the rights of any party to the matter, it may append submitted evidence to its report for Council's information.
- (4) Dissenting views of members of the Committee must be appended to the report.

## Decision by the Council

- 159 (1) The Committee must refer its report with recommendations to Council for approval. The Committee Chairperson shall be allowed up to 10 minutes to table the report and outcome(s) of the investigation.
- (2) The report of the Committee may not be debated in Council.
- (3) Council may only approve or refer the report back to the Committee for reconsideration and report back.
- (4) Should Council not approve the reconsidered report of the Committee, the matter shall be regarded as dismissed.

## **CHAPTER 12: RECORDS OF COUNCIL**

### **Secretary to Council and Records**

#### **Duties of Secretary to Council**

- 160 In addition to the duties mentioned in these Rules, the Secretary to Council is responsible for the regulation of all matters connected with the business of the Council, subject to direction of the Speaker or the Council.

#### **Minutes of Proceedings**

- 161 The Minutes of Proceedings must be taken by the Secretary to Council and, after perusal by the Speaker, be printed and delivered to every Councillor.

#### **Journals of the Council**

- 162 The Minutes of Proceedings, signed by the Speaker of Council, constitute the Journal of the Council.

#### **Agenda**

- 163 The Secretary to Council must print the Agenda for each Council Meeting and in accordance with Rule 161, dispatch it to each Councillor.

#### **Custody of Papers**

- 164 (1) The Speaker of Council is the custodian of all records and papers of the Council.  
(2) Records or other papers of the Council cannot be removed from the precincts of the Council without the permission of the Speaker, where such records or papers relate to a matter discussed when Council or a section 79 Committee deliberated in committee.

## **CHAPTER 13: REPEAL**

### **Repeal of the Standing Rules of Council, 2013**

165 The Standing Rules of Council, 2013, approved by Council on 19 September 2013 are hereby repealed.

### **Short Title and Commencement**

166 These Rules and Orders are called the Standing Rules and Orders of Council, 2016, and take effect from date of approval by Council.



## CHAPTER 14: SCHEDULES

### SCHEDULE 1

#### CODE OF CONDUCT FOR COUNCILLORS

##### PREAMBLE:

Councillors are elected to represent local communities or municipal council, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the municipality.

In fulfilling this role councillors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the municipality in terms of established indicators.

In order to ensure that councillors fulfil their obligations to their communities, and support the achievement by the municipality of its objectives set out in section 19 of the Municipal Structures Act, the following code of conduct is established:

#### 1. Definitions

In this Schedule "partner" means a person who permanently lives with another person in a manner as if married.

#### 2. General conduct of councillors

A councillor must -

- (a) perform the functions of the office in good faith, honestly and transparent manner; and
- (b) at all times act in the best interest of the municipality and in such a way that the credibility and the integrity of the municipality are not compromised.

#### 2A. Voting at meetings - a councillor may not vote in favour of or agree to a resolution which conflicts with any legislation applicable to local government.

(Items 2A) inserted by s.14 of Act No.7 of 2011.)

#### 3. Attendance at meetings

A councillor must attend each meeting of the municipal council and a committee of which that councillor is a member, except when -

- (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of council ; or
- (b) that councillor is required in terms of this Code to withdraw from the meeting.

**4. Sanctions for non-attendance of meetings**

- (1) A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for:
  - (a) not attending a meeting which that councillor is required to attend in terms of item 3; or
  - (b) Failing to remain in attendance at such meeting.
- (2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor.
- (3) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item. The uniform standing procedure must comply with the rules of natural justice.

**5. Disclosure of interests**

- (1) A councillor must -
  - (a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and
  - (b) withdraw from the proceedings of the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.
- (2) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council at which it is possible for the councillor to make the disclosure.
- (3) This section does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquire in common with other residents of the municipality.

**6. Personal gain**

- (1) A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.
- (2) .....  
(sub-item (2) deleted by s.20(a) of  
Act No.19 of 2008)
- (3) .....  
(sub-item (3) deleted by s. 20 (a)of  
Act No.19 of 2008)



- (4) No councillor may be a party to or beneficiary under a contract for provision of goods or services to any municipality or any municipality entity established by a municipality.

(sub-item(4) added by s.20(b) of  
Act No .19 of 2008)

#### **7. Declaration of interests**

- (1) When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interests held by that councillor:
- (a) shares and securities in any company;
  - (b) membership of any close corporation;
  - (c) interest in any trust;
  - (d) directorships;
  - (e) partnerships;
  - (f) other financial interests in any business undertaking
  - (g) employment and remuneration;
  - (h) interest in property;
  - (i) pension; and
  - (j) subsidies, grants and sponsorships by any organisation.
- (2) Any change in the nature or detail of the financial interest of a councillor must be declared in writing to the municipal manager annually.
- (3) Gifts received by a councillor above a prescribed amount must also be declared in accordance with sub-item (1).
- (4) The municipal council must determine which of the financial interests referred in sub item (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

#### **8. Full-time councillors**

A councillor who is a full time councillor may not undertake any other paid work except with the consent of a municipal council which consent shall not unreasonably be withheld.

#### **9. Rewards, gifts and favours**

A councillor may not request, solicit or accept any reward, gift or favour for -

- (a) voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member;
- (b) persuading the council or any committee in regard to the exercise of any power, function or duty ;
- (c) making a representation to the council or any committee of the council' or
- (d) disclosing privileged or confidential information.



**10. Unauthorised disclosure of information**

- (1) A councillor may not without the permission of the municipal council or a committee disclose any privileged or confidential information of the council or committee to any unauthorised person.
- (2) For the purpose of this item "privileged or confidential information" includes any information -
  - (a) determined by the municipal council or committee to be privileged or confidential;
  - (b) discussed in close session by the council or committee;
  - (c) disclosure of which would violate a person's right to privacy; or
  - (d) declared to be privileged , confidential or secret in terms of law.
- (3) This item does not derogate from the right of any person to access to information in terms of national legislation.

**11. Intervention in administration**

A councillor may not, except as provided by law -

- (a) interfere in the management or administration of any department of the municipal council unless mandated by council;
- (b) give or support to give any instruction to any employee of the council except when authorised to do so;
- (c) obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or
- (d) encourage or participate in any conduct which would cause or contribute to maladministration in the council.

**12. Council property**

A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has no right.

**12A. Councillor in arrears**

A councillor may not be in arrears to the municipality for rates and services charges for period longer than 3 months.

(Item 12A inserted by s. 45 of Act No 51 of 2002)

**13. Duty of chairperson of municipal councils**

- (1) If the chairperson of a municipal council , on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must -
  - (a) authorise an investigation of the facts and circumstances of the alleged breach;
  - (b) give the councillor a reasonable opportunity to reply in writing regarding the alleged breach ; and
  - (c) report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.



- (2) A report in terms of sub item (1)(c) is open to the public.
- (3) The chairperson must report the outcome of the investigation to the MEC for local government in the province concerned.
- (4) The chairperson must ensure that each councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets.

#### 14. Breaches of the Code

- (1) A municipal council may -
  - (a) investigate and make a finding on any alleged breach of a provision of this Code; or
  - (b) establish a special committee -
    - (i) to investigate and make a finding on any alleged breach of this Code ; and
    - (ii) to make appropriate recommendations to the council.
- (2) If the council or a special committee finds that councillor has breached a provision of this Code, the council may -
  - (a) issue a formal warning to the councillor
  - (b) reprimand the councillor;
  - (c) request the MEC for local government in the province to suspend the councillor for a period
  - (d) fine the councillor; and
  - (e) request the MEC to remove the councillor from the office.
- (3) (a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of sub item (2) may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.
- (b) A copy of the appeal must be provided to the council.
- (c) The council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC for local government in writing.
- (d) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.
- (4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation as to the appropriate sanction in terms of sub item (2) if a municipal council does not conduct an investigation contemplated in sub item (1) and the MEC for local government considers it necessary.

(sub-item(4) substituted by s.21 of Act .19 of 2008)

- (5) The Commission Act, 1947 (Act No 8 of 1947), or where appropriate, applicable provincial legislation, may be applied to an investigation in terms of sub item (4)

(sub-item (5) substituted by s.46 of Act No. 51 of 2002

- (6) If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from the office, the MEC may -
- (a) suspend the councillor for a period and on conditions determined by the MEC; or
  - (b) remove the councillor from the office .
- (7) Any investigation in terms of this item must be in accordance with the rules of natural justice.

#### 15. Application of Code to traditional leaders




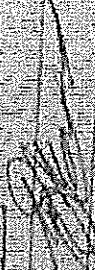
- (1) Items 1, 2, 5, 6, 9(b) to (d), 10, 11, 12, 13 and 14(1) apply to a traditional leader who participates or has participated in the proceedings of a municipal council in terms of section 81 of the Municipal Structures Act.
- (2) These items must apply to the traditional leader in the same way they apply to councillors.
- (3) If a municipal council or a special committee in terms of item 14 (1) finds that a traditional leader has breached a provision of this Code, the council may -
  - (a) issue a formal warning to the traditional leader; or
  - (b) request the MEC for local government in the province to suspend or cancel the traditional leader's right to participate in the proceedings of the council.
- (4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the right of the traditional leader to participate in the proceedings of the municipal council should be suspended or cancelled.
- (5) The Commissions Act, 1947, may be applied to an investigation in terms of sub item (4).
- (6) If the MEC is of the opinion that the traditional leader has breached a provision of this Code, and that such breach warrants a suspension or cancellation of the traditional leader's right to participate in the council's proceedings, the MEC may -
  - (a) suspend that right for a period and on conditions determined by the MEC, or
  - (b) cancel that right.
- (7) Any investigation in terms of this item must be in accordance with the rules of natural justice.
- (8) The suspension or cancellation of a traditional leader's right to participate in the proceedings of council does not affect that traditional leader's right to address the council in terms of section 81 (3) of the Municipal Structures Act.

"A"

"MP7"

ORDINARY/EXTRAORDINARY	EXTRAORDINARY
MEETING NUMBER	
DATE OF MEETING	29 September 2022
TIME OF MEETING	16:00

# COUNCILLORS:

NO	FULL MEMBERS	SIGNATURE
1	MAKHUBELE, T C (SPEAKER OF COUNCIL)	
2	VACANT (CHAIR OF CHAIRS)	—
3	MEYERS, T (WHIP OF COUNCIL)	—
4	NGOBENI, R F (ActionSA)	
5	VAN DER SCHYF, C (ActionSA)	—
6	NIEMAND, G J (DA)	—
7	SIFUMBA, N (DA)	—
8	DLANUWA, M (EFF)	—
9	RADEBE NIEFF	
10	ARNOLDS, M S (AIG)	ON-LINE
11	VACANT (ACDR)	
12	MGCINALE (ANC)	—
13	KNOTT, L (DA)	ON-LINE
14	MORERO, E (ANC)	
	ALTERNATES	
1	ALEXANDER, W (DA)	—
2	MOKOENA, G (EFF)	—
3	COUTRIERS, M J (ActionSA)	—
4	MAKHUBELE, T C (SPEAKER OF COUNCIL)	—

11

"MP8"  
"FA4"  
81

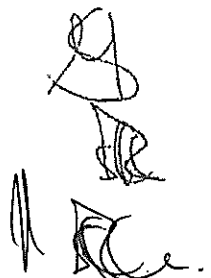
COJ : PROGRAMMING COMMITTEE 2022-09-29


IT IS HEREBY NOTIFIED THAT THE 3<sup>RD</sup> EXTRA - ORDINARY MEETING OF THE PROGRAMMING COMMITTEE WILL BE HELD THROUGH HYBRID ON MICROSOFT TEAMS (VIRTUAL) AND AT THE EXCO-BOARDROOM, SECOND FLOOR, COUNCIL CHAMBER WING, METROPOLITAN CENTRE, BRAAMFONTEIN (PHYSICAL) ON THURSDAY, 29 SEPTEMBER 2022, AT 16:00.

SPEAKER OF COUNCIL  
COUNCILLOR C MAKHUBELE

#### A G E N D A

- 1 OPENING
- 2 LEAVE OF ABSENCE
- 3 CONFIRMATION OF THE PROGRAMMING MINUTES  
(5<sup>th</sup> Ordinary Meeting held on 15 August 2022)  
(2<sup>nd</sup> Extra – Ordinary meeting held on 23 August 2022)
- 4 MATTERS ARISING FROM THE PROGRAMMING MINUTES  
(5<sup>th</sup> Ordinary Meeting held on 15 August 2022)  
(2<sup>nd</sup> Extra – Ordinary meeting held on 23 August 2022)
- 5 DRAFT COUNCIL MINUTES
- 6 ITEMS TO BE REFERRED TO COUNCIL (30 SEPTEMBER 2022)  
FROM THE EXECUTIVE
  - 6.1 ITEMS TO BE REFERRED TO THE SECTION 79 COMMITTEES FROM  
THE EXECUTIVE
- 7 ITEMS TO BE REFERRED TO COUNCIL (30 SEPTEMBER 2022) FROM  
THE LEGISLATURE
  - 7.1 ITEMS TO BE REFERRED TO THE SECTION 79 COMMITTEES FROM  
THE LEGISLATURE
- 8 QUESTIONS FOR WRITTEN REPLY
- 9 MOTIONS
- 10 PROGRESS REPORT ON BYLAWS
- 11 CLOSURE



←  **Programming Co...**  
Anna, Carin, Collen, Eunice...

+27 83 702 8473 removed Dingane Sithole Acdp

~Patience

13:09

73:09

13:27

### 2. Patience

3

MP9A

Elzanne Jonker

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**Subject:** FW: Extra-Ordinary Programming Committee Meeting  
**Location:** Microsoft Teams Meeting  
  
**Start:** Thu 2022/09/29 16:00  
**End:** Thu 2022/09/29 17:00  
**Show Time As:** Tentative  
  
**Recurrence:** (none)  
  
**Organizer:** Patience Mokoena

-----Original Appointment-----

**From:** Patience Mokoena <[PatienceMok@joburg.org.za](mailto:PatienceMok@joburg.org.za)>  
**Sent:** Thursday, 29 September 2022 15:28  
**To:** Patience Mokoena; Hannah Kirkwood; Sindiswa Ndlovu  
**Subject:** FW: Extra-Ordinary Programming Committee Meeting  
**When:** Thursday, 29 September 2022 16:00-17:00 (UTC+02:00) Harare, Pretoria.  
**Where:** Microsoft Teams Meeting

-----Original Appointment-----

**From:** Patience Mokoena <[PatienceMok@joburg.org.za](mailto:PatienceMok@joburg.org.za)>  
**Sent:** Thursday, 29 September 2022 13:33  
**To:** Patience Mokoena; Sindiswa Ndlovu  
**Subject:** Extra-Ordinary Programming Committee Meeting  
**When:** Thursday, 29 September 2022 16:00-17:00 (UTC+02:00) Harare, Pretoria.  
**Where:** Microsoft Teams Meeting

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Microsoft Teams meeting

**Join on your computer, mobile app or room device**

[Click here to join the meeting](#)

Meeting ID: 368 535 525 853

Passcode: FHdEqG

[Download Teams](#) | [Join on the web](#)

**Join with a video conferencing device**

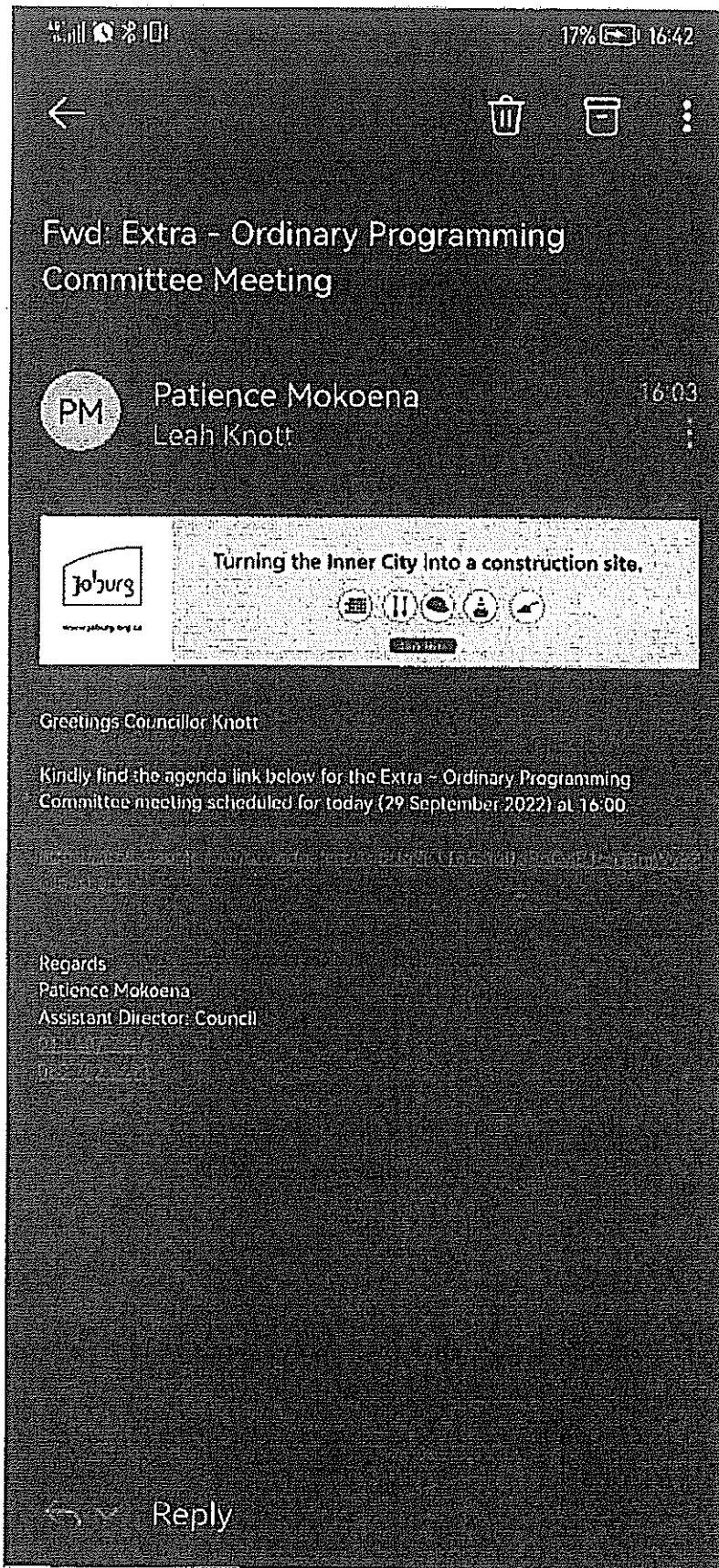
[teams@joburg.onpexip.com](mailto:teams@joburg.onpexip.com)

Video Conference ID: 129 872 967 9

[Alternate VTC instructions](#)

[Learn More](#) | [Meeting options](#)

MP9 B  
+ A5  
82



Handwritten signature and initials.

"MP 9C"

Leah Knott

**From:** Leah Knott  
**Sent:** Thursday, 29 September 2022 17:00  
**To:** Patience Mokoena  
**Cc:** Tyrell Meyers; Diena Louwrens; Mike Moriarty; Madimetsa Molekwa; Bryne Maduka; Funzela Ngobeni  
**Subject:** RE: Extra - Ordinary Programming Committee Meeting  
**Importance:** High

Dear Patience,

I think it is more than unreasonable to send an invitation for a meeting that had already commenced before the invite was sent out.

It is a legally sound principle that meeting requests should be issued before a meeting takes place particularly where this is an unscheduled meeting. I am not certain how anyone would be expected to attend in such a circumstance.

Please note my formal complaint in relation to the manner in which this has been handled as well as the lack of urgency in calling such a meeting.

Regards,

**Leah Knott**

Member of the Mayoral Committee: Group Corporate and Shared Services & Leader of Executive Business


158 Civic Boulevard Street, Metro Centre, 4<sup>th</sup> Floor, Braamfontein, 2001


Email: [LeahKn@Joburg.org.za](mailto:LeahKn@Joburg.org.za)

Tel: 011 407 7447

Cell: 082 633 9070

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@CityofJoburgZA 

CityofJohannesburg 



**From:** Patience Mokoena <[PatienceMok@joburg.org.za](mailto:PatienceMok@joburg.org.za)>  
**Sent:** Thursday, 29 September 2022 16:04  
**To:** Leah Knott <[LeahKn@joburg.org.za](mailto:LeahKn@joburg.org.za)>  
**Subject:** FW: Extra - Ordinary Programming Committee Meeting



[www.joburg.org.za](http://www.joburg.org.za)

Turning the Inner City into a construction site.



[Click Here](#)



Greetings Councillor Knott

Kindly find the agenda link below for the Extra – Ordinary Programming Committee meeting scheduled for today (29 September 2022) at 16:00.

<https://drive.google.com/drive/folders/1gbrJq9KTT64kYu0zjRnCvIB1raGRmWvR?usp=sharing>

Regards  
Patience Mokoena  
Assistant Director: Council  
011 407 7356  
083 702 8473

A handwritten signature in black ink, appearing to be 'H. Mokoena', located at the bottom right of the page.

Elzanne Jonker

---

**From:** Patience Mokoena <PatienceMok@joburg.org.za>  
**Sent:** Thursday, 29 September 2022 13:25  
**To:** Council Meeting; Madimetsa Molekwa; Judith Moremi; Mpho Komane; Benjamin Tseke; Keletso Selomo; Nkululeko Ntobeko Mbundu; Tumelo Ramathoka; Peter Wisemen Mzimela; Tikanelo Tseki; Bryne Maduka; Diena Louwrens; Dumisane Dube; Theresa Cordier  
**Cc:** Nolutsholo Ndinisa; Henry Mavuso; John Bosco Arends; Anthony Bunseelal; mthonti.sandile; 'mphonevhutalu378@gmail.com'; Mpho Masipa; Londiwe Mthabela; Desiree Meyer; Sello Moratele; Mokgano Leshalabe; Nompumelelo Khanyile; Angela Mabuse; Frans Sheleng  
**Subject:** 9th Extra - Ordinary Council meeting Notice  
**Attachments:** COUNCIL NOTICE 30 SEPTEMBER 2022.pdf



[www.joburg.org.za](http://www.joburg.org.za)



Greetings Councillors and Colleagues

Please find the attached notice for the 9<sup>th</sup> Extra—Ordinary Council meeting scheduled for tomorrow, (30 September 2022), at 10:00.

Kindly note that the reports will follow in due course.

Regards  
Patience Mokoena  
Assistant Director: Council  
Legislative & Oversight  
011 407 7356  
083 702 8473

A handwritten signature in the bottom right corner of the page.



**Agenda, 9<sup>th</sup> Extra-Ordinary Council Meeting of the City of Johannesburg Municipality**

**IT IS HEREBY NOTIFIED THAT THE 9<sup>th</sup> EXTRA - ORDINARY COUNCIL MEETING OF THE CITY OF JOHANNESBURG MUNICIPALITY WILL BE HELD ON FRIDAY, 30 SEPTEMBER 2022, AT 10:00 AT THE CONSTANCE CONNY BAPELA COUNCIL CHAMBER, METROPOLITAN CENTRE, BRAAMFONTEIN.**

**SPEAKER OF COUNCIL  
COUNCILLOR C MAKHUBELE**

**A G E N D A**

- 1 OPENING**
- 2 APPLICATIONS FOR LEAVE OF ABSENCE**
- 3 QUESTIONS FOR WRITTEN REPLY OF WHICH NOTICE HAS BEEN GIVEN IN TERMS OF RULE 105(2) OF THE STANDING RULES AND ORDERS OF COUNCIL**
- 4 RECOMMENDATIONS TO COUNCIL**
- 5 MOTIONS**
- 6 ANNOUNCEMENTS BY THE SPEAKER**

"MP11"

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No:

In the application for leave to intervene:-

THE EXECUTIVE MAYOR OF THE CITY OF JOHANNESBURG:  
MPHO PHALATSE

Applicant

and

THE SPEAKER OF THE CITY OF JOHANNESBURG:  
COLLEEN MAKHUBELE

First Respondent

THE CITY OF JOHANNESBURG  
METROPOLITAN MUNICIPALITY

Second Respondent

MEMBERS OF THE PROGRAMMING COMMITTEE  
OF THE CITY OF JOHANNESBURG

Third to Fourteenth Respondents

---

ANSWERING AFFIDAVIT

---

I the undersigned,

COLLEEN MAKHUBELE

Do hereby make oath and state that:

1. I am the Speaker of Council of City of Johannesburg Metropolitan Municipality having been deployed thereto by the Congress of the People with my principal address situate at Metro Centre, Loveday Street, Johannesburg



2. I am authorised to depose to this affidavit by virtue of being the First Respondent in this matter.
3. The facts contained herein, unless otherwise stated or appear from the context are within my personal knowledge and are, to the best of my belief both true and correct.
4. Where I depose to allegations of a legal nature, I do so on the advice of the Intervening Party's representatives, which I believe to be correct. Legal submissions will be addressed in respect of these issues at the hearing of this application, where necessary.
5. This affidavit was prepared on an extremely urgent basis.

### **Urgency**

6. This matter is not urgent. The horse has already bolted. The matter is set down for hearing at 10:00 and by that time, the Council meeting shall have commenced. Urgent applications are about future events. By the time this matter is heard, the meeting sought to be interdicted shall have commenced.
7. There is also non-compliance with the practice directives of this court. The Applicant does not ask for non-compliance with the practice directive of this court. On this basis alone, this matter must be struck off the roll for lack of urgency.



8. There is also non-compliance with Rule 41A of the rules of this court. The provisions of rule 41A are peremptory.
9. There has been a compliance with section 53(1) of the Local Government: Municipal Structures Act (Act No. 117 of 1998) ("the Structures Act"). The notice envisaged by section 53(1) of the Structures Act was given to the parties at the programming committee meeting. All political parties are represented in the programming committee. There has been a notice as envisaged in section 53(1) of the Structures Act.
10. As the Speaker of Council, I have the powers to call an extra-ordinary council meeting. Extra-ordinary meeting, by its own nature, is out of the ordinary. The three day period does not apply. There have been many instances where extra ordinary Programming were called without complying with the notice period.
11. Extraordinary means just that and hence time periods applicable to an ordinary Programming meeting do not apply.
12. This is distinct from an ordinary Programming Committee meeting where the three-day notice period applies.
13. The meeting reached a quorum. A copy of the agenda of the programming committee meeting of yesterday is attached hereto and marked "A". At a time when the motion for the removal of the mayor was discussed the meeting reached a quorum. The programming committee of yesterday was to get a feedback on whether the motion for the removal of the mayor that was discussed



in the previous committee on 23 August 2022. The programming committee of yesterday dealt with a feedback. The feedback the programming committee was that the case involving the mayor was not sub-judice. In any event that matter involve the former mayor Herman Mashaba. The current mayor is not an applicant in that matter.

14. This application is ill-conceived.

**WHEREFORE** I pray that this application be struck off the roll with costs alternatively be dismissed with costs.


---

**COLLEEN MAKHUBELE**

I CERTIFY that this affidavit was signed and sworn to before me at Johannesburg on this the 30<sup>th</sup> day of SEPTEMBER 2022 by the deponent who acknowledges that she knew and understood the contents of this affidavit, had no objection to taking this oath, considered this oath to be binding on her conscience and who uttered the following words: *"I swear that the contents of this affidavit are true, so help me God"*.

---

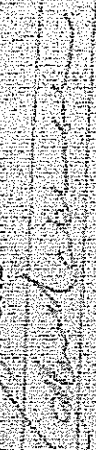




**COMMISSIONER OF OATH**



"A"

ORDINARY/EXTRAORDINARY	37 Extraordinary Programming Meeting
MEETING NUMBER	
DATE OF MEETING	29 September 2022
TIME OF MEETING	16:00

### COUNCILLORS:

NO	FULL MEMBERS	SIGNATURE
1	MAKHUBELE, T C (SPEAKER OF COUNCIL)	
2	VACANT (CHAIR OF CHAIRS)	
3	MEYERS, T (WHIP OF COUNCIL)	
4	NGOBENI, R F (ActionSA)	
5	VAN DER SCHYF, C (ActionSA)	
6	NIEMAND, G J (DA)	
7	SIFUMBA, N (DA)	
8	DLANJWA, M (EFF)	
9	RADEBE, N (EFF)	ON-LINE
10	ARNOLDS, M S (AIC)	
11	VACANT (ACDPI)	
12	MGCINALE (ANC)	
13	KNOTT, L (DA)	ON-LINE
14	MORERO, E (ANC)	
ALTERNATES		
1	ALEXANDER, W (DA)	
2	MOKOENA, G (EFF)	
3	COUTRIERS, M J (ActionSA)	
4	MACHUBA	



"MPIZ"

Elzanne Jonker

**From:** Tyrell Meyers <TyrellM@joburg.org.za>  
**Sent:** Sunday, 02 October 2022 11:14  
**To:** Colleen Makhubele  
**Cc:** Patience Mokoena  
**Subject:** REQUEST FOR MINUTES AND RECORDINGS OF THE PROGRAMMING COMMITTEE DATED 29th SEPTEMBER 2022  
**Attachments:** REQUEST FOR MINUTES AND RECORDINGS OF THE PROGRAMMING COMMITTEE DATED 29th SEPTEMBER 2022.pdf



www.joburg.org.za



Dear Speaker of Council

Please kindly see attached memo, for your urgent assistance.

Regards

**Councillor:** Tyrell Meyers (Ward 23)  
Whip of Council  
**Cell:** 082 572 8925  
**Web:** <https://jhbsouthconstituency.co.za/joburg-south-constituency/>  
**Email:** TyrellM@joburg.org.za

Contact details to report and log your service delivery issues/requests.

Remember it's the responsibility of the Municipality to supply the services to residents and the Councillor's role is oversight monitoring and performance.

PS: Please always ensure you have a reference number when escalating to the groups and Councillor.

#### City Power

This includes:

1. Electricity outages
2. Metre issues
3. Street lights
4. Prepaid/Smart metering.

Call: 0860 562 874 option 2.

Call: 011 375 5555 option 2.

Using web portal

<https://citypower.mobi>

or you can download the FREE app from playstore "My Citypower"

Twitter: @CityPowerJhb

### **Joburg Water**

This includes:

1. Sewage leaks and overflows
2. Burst water pipes
3. Replacing damaged metres
4. Fire Hydrants valves

Call: 0860 562 874

SMS line: 076 333 5052

Email: customer@jwater.co.za

Twitter: @JHBWater

### **Joburg Road Agency**

This includes:

1. Pothole repairs
2. Storm water drains
3. Re-instatement a
4. Road markings
5. Road signage
6. Traffic signals
7. Pavements (Hard surface)

Call: 0800 002 587 or  
0860 562 874 option 5

Email: hotline@jra.org.za

Twitter: @MyJra

### **City Parks**

This includes:

1. Tree pruning/cutting
2. Grass cutting
3. Municipal pools
4. The Joburg Zoo
5. Libraries
5. Recreation centres
6. Joburg open spaces
7. City owned Parks

Call: 0860 562 874 option 0

Email:

vmkhize@jhbcityparks.com  
pkubheka@jhbcityparks.com  
wafrica@jhbcityparks.com

Fallen trees: 011 712-6600  
Or trees@jhbcityparks.com

### **Pikitung**

This includes:

1. Refuse removal (Household)
2. Clearing public bins
3. Illegal dumping

Call: 0860 562 874 option 4  
Illegal dumping WhatsApp to 082 779 1361

### **Emergency Services / JMPD**

These include:

1. Fires
2. Noise control
3. Ambulances services
4. By law infringements
5. Traffic enforcement and licensing

Call JMPD 011 758 9620 or 011 375 5918 and state emergency

Call Fire: (011) 375-5911

### **Billing Queries**

These include:

1. Billing related matters
2. Statement inquiries
3. Payment arrangements

Call: 0860 562 874 option 1

Email: regionFrevenue@joburg.org.za

Municipal statement [www.joburg.org.za](http://www.joburg.org.za)

Under e-services, other queries must  
be logged at a walk-in centre

### **Health-related Issues**

These include:

1. Health department
2. Environmental health

Call: 011 375 5555 and ask for Environmental Health

Contact the Regional Office on 011 681-8082 or visit them at at their offices, 2nd Floor at Eureka House, 92  
Marlborough Road, Springfield

### **Hijacked Properties**



These include:

1. Hijacked property
2. Abandoned properties

Contact the Group Forensics and Investigation Services (GFIS) on 080 000 2587

### **Building Control**

These include:

1. Town planning
2. Building inspector
3. Plans
4. Urban management
5. Zoning

Email: [ComplaintsPLE@joburg.org.za](mailto:ComplaintsPLE@joburg.org.za)

### **Disclaimer**

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd**, an innovator in Software as a Service (SaaS) for business. Providing a **safer** and **more useful** place for your human generated data. Specializing in; Security, archiving and compliance. To find out more [Click Here](#).



CITY OF JOHANNESBURG  
**COUNCILLOR TYRELL MEYERS**  
WHIP OF COUNCIL

## MEMORANDUM

TO : COUNCILLOR COLLEEN MAKHUBELE  
SPEAKER OF COUNCIL

COPY : PATIENCE MOKWENA  
COMMITTEE CO-ORDINATOR

FROM : COUNCILLOR TYRELL MEYERS  
WHIP OF COUNCIL: CITY OF JOHANNESBURG

DATE : 2<sup>nd</sup> OCTOBER 2022

SUBJECT : REQUEST FOR MINUTES AND RECORDINGS OF THE PROGRAMMING  
COMMITTEE DATED 29<sup>th</sup> SEPTEMBER 2022

---

Dear Speaker of Council

As a member of the programming committee, a meeting was called for an extra ordinary programming committee meeting on the 29<sup>th</sup> September 2022 at 16:00.

Please can you urgently send me a copy of the minutes as well as the MS Teams recording for the said meeting to my email [tyrellm@joburg.org.za](mailto:tyrellm@joburg.org.za)

Your assistance in this regard is highly appreciated.



Thank you

Regards

COUNCILLOR TYRELL MEYERS  
WHIP OF COUNCIL

---

Private Office of the Chief Whip of Council, 1st Floor, Metro Centre, 158 Civic Boulevard, Braamfontein



"MP13"

Elzanne Jonker

**From:** Patience Mokoena <PatienceMok@joburg.org.za>  
**Sent:** Thursday, 29 September 2022 18:06  
**To:** Council Meeting; Madimetsa Molekwa; Judith Moremi; Mpho Komane; Benjamin Tseke; Keletso Selomo; Nkululeko Ntobeko Mbundu; Tumelo Ramathoka; Peter Wisemen Mzimela; Tikanelo Tseki; Bryne Maduka; Diena Louwrens; Dumisane Dube; Theresa Cordier; Matsietsi Mothopeng  
**Cc:** Nolukholo Ndinisa; Henry Mavuso; John Bosco Arends; Anthony Bunseelal; mthonti.sandile; 'mphonevhutalu378@gmail.com'; Mpho Masipa; Londiwe Mthabela; Desiree Meyer; Sello Moratele; Mokgano Leshalabe; Nompumelelo Khanyile; Angela Mabuse; Frans Sheleng  
**Subject:** 9th Extra - Ordinary Council Meeting (Amended Notice)  
**Attachments:** AMENDED COUNCIL NOTICE 30 SEPTEMBER 2022.docx



Greetings Councillors and Colleagues

Please find the attached amended notice for the 9<sup>th</sup> Extra–Ordinary Council meeting scheduled for tomorrow, (30 September 2022), at 10:00.

Kindly note that the reports will follow in due course.

Regards  
Patience Mokoena  
Assistant Director: Council  
Legislative & Oversight  
011 407 7356  
083 702 8473



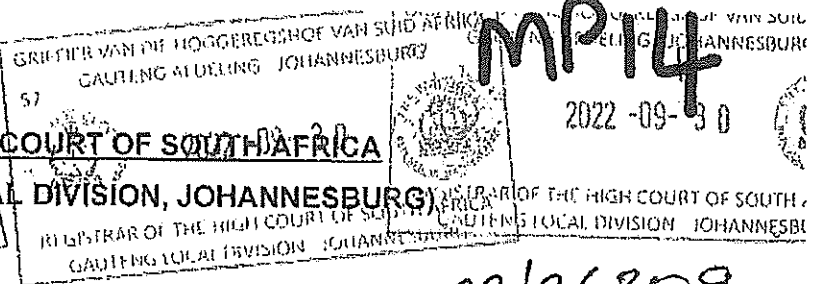
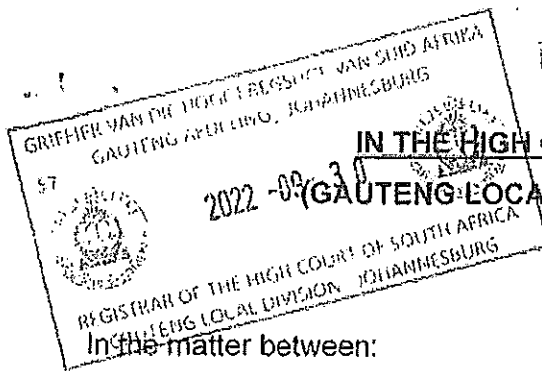
## **Agenda, 9<sup>th</sup> Extra-Ordinary Council Meeting of the City of Johannesburg Municipality**

**IT IS HEREBY NOTIFIED THAT THE 9<sup>th</sup> EXTRA - ORDINARY COUNCIL MEETING OF THE CITY OF JOHANNESBURG MUNICIPALITY WILL BE HELD ON FRIDAY, 30 SEPTEMBER 2022, AT 10:00 AT THE CONSTANCE CONNY BAPELA COUNCIL CHAMBER, METROPOLITAN CENTRE, BRAAMFONTEIN.**

**SPEAKER OF COUNCIL  
COUNCILLOR C MAKHUBELE**

### **A G E N D A**

- 1 OPENING**
- 2 APPLICATIONS FOR LEAVE OF ABSENCE**
- 3 RECOMMENDATIONS TO COUNCIL**
- 4 MOTIONS**
- 5 ANNOUNCEMENTS BY THE SPEAKER**



CASE NO: 22/26809

In the matter between:

**THE EXECUTIVE MAYOR OF THE  
CITY OF JOHANNESBURG: MPHO PHALATSE**

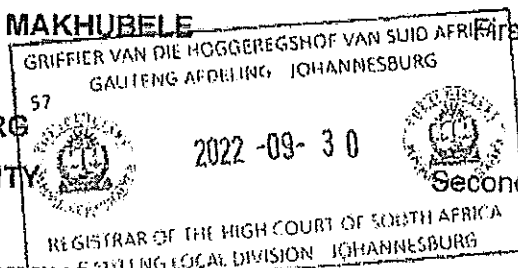
Applicant

and

**THE SPEAKER OF THE CITY OF  
JOHANNESBURG: COLLEEN MAKHUBELE**

First Respondent

**THE CITY OF JOHANNESBURG  
METROPOLITAN MUNICIPALITY**



Second Respondent

**MEMBERS OF THE PROGRAMMING  
COMMITTEE OF THE CITY OF JOHANNESBURG  
AS LISTED IN ANNEXURE X**

Third to Fourteenth Respondents

### NOTICE OF MOTION

**BE PLEASED TO TAKE NOTICE THAT** the Applicants intend to apply to the above honourable Court on Friday, 30 September 2022 at 10h00 or so soon thereafter as the matter may be heard for an Order in the following terms:

1. The forms, time limits and service as provided for in the Rules of Court are dispensed within terms of Rule 6(12) and this application is heard on an urgent basis.
2. The Notices convening the 9<sup>th</sup> Extra Ordinary Council meeting of the City of Johannesburg Municipality for 30 September 2022 at 10h00 issued by the First Respondent are declared to be unlawful, invalid, null and void.

3. The meeting of the Programming Committee of the City of Johannesburg of 29 September 2022 be declared to have been inquorate and its decision unlawful, invalid and of no force and effect.
4. The council meeting convened by the notices and scheduled for 30 September 2022 at 10h00 is ordered and directed not to take place.
5. Ordering the First Respondent to pay the costs of this application.
6. Further and/or alternative relief.

**AND TAKE NOTICE THAT** the Founding Affidavit of Mpho Phalatse and annexures thereto will be used in support of this application.

**AND TAKE FURTHER NOTICE THAT** the Applicants have appointed the address of their Attorneys of Record, as set out below as the address at which they will accept service of all further notices, process and documents in these proceedings.

**AND TAKE FURTHER NOTICE THAT** if the Respondent intends to oppose this application, she must deliver a Notice of Intention to Oppose to the Applicants' Attorneys via email at [charlesb@moodierobertson.co.za](mailto:charlesb@moodierobertson.co.za) no later than Friday, 30 September 2022 at 08:00 and appoint an address for service of documents in these proceedings.

**AND TAKE FURTHER NOTICE THAT** that in the event the Respondent intends opposing this application, she must deliver their Answering Affidavits by no later than Monday, 30 September 2022 at 08h00.

Kindly enrol the matter accordingly.

DATED AT JOHANNESBURG ON THIS 29<sup>th</sup> DAY OF SEPTEMBER 2022.

11  
FRC

**MOODIE & ROBERTSON**

Applicant's Attorneys  
12<sup>th</sup> Floor, East Wing  
Libridge Building  
25 Ameshoff Street  
Braamfontein  
PO Box 4685  
Johannesburg 2000  
Tel: (011) 628-8600  
Fax: (011) 720-7541  
Email: [charlesb@moodierobertson.co.za](mailto:charlesb@moodierobertson.co.za)  
Ref: Mr C Beckenstrater/mo/

TO:  
**THE REGISTRAR OF THE  
ABOVE HONOURABLE COURT  
JOHANNESBURG**

AND TO:  
**COUNCILLOR COLLEEN MAKHUBELE**  
First Respondent  
Email: [colleen.makhubele@gmail.com](mailto:colleen.makhubele@gmail.com)  
[colleenmak@joburg.org.za](mailto:colleenmak@joburg.org.za)

*SERVICE PER EMAIL*

AND TO:  
**THE CITY OF JOHANNESBURG  
METROPOLITAN MUNICIPALITY**  
Second Respondent  
C/O City Manager  
Email: [BryneMa@joburg.org.za](mailto:BryneMa@joburg.org.za)  
[MadimetsaMo@joburg.org.za](mailto:MadimetsaMo@joburg.org.za)

*SERVICE PER EMAIL*

AND TO:  
**MEMBERS OF THE PROGRAMMING  
COMMITTEE OF THE CITY OF JOHANNESBURG  
AS LISTED IN ANNEXURE X**  
Third to Fourteenth Respondents

*SERVICE PER EMAIL*



X 4

## COJ : PROGRAMMING COMMITTEE

### COUNCILLORS:

NO	FULL MEMBERS
1	DA GAMA, V M (SPEAKER OF COUNCIL)
2	MAKHUBELE, T C (CHAIR OF CHAIRS)
3	MEYERS, T (WHIP OF COUNCIL)
4	NGOBENI, R F (ActionSA)
5	VAN DER SCHYF, C (ActionSA)
6	NIEMAND, G J (DA)
7	SIFUMBA, N (DA)
8	DLANJWA, M (EFF)
9	RADEBE, P N (EFF)
10	ARNOLDS, M S (AIC)
11	SITHOLE, A M (ACDP)
12	MORERO, E (ANC)
13	MGCINA E (ANC)
14	KNOTT, L (DA)
	<b>ALTERNATES</b>
1	ALEXANDER, W R (DA)
2	MOKOENA, G (EFF)
3	COUTRIERS, M J (ActionSA)
4	MASUKU, L (ANC)

Handwritten signature/initials.

5

**IN THE HIGH COURT OF SOUTH AFRICA**  
**(GAUTENG LOCAL DIVISION, JOHANNESBURG)**

**CASE NO:**

In the matter between:

**THE EXECUTIVE MAYOR OF THE  
CITY OF JOHANNESBURG: MPHO PHALATSE**

Applicant

and

**THE SPEAKER OF THE CITY OF  
JOHANNESBURG: COLLEEN MAKHUBELE**

First Respondent

**THE CITY OF JOHANNESBURG  
METROPOLITAN MUNICIPALITY**

Second Respondent

**MEMBERS OF THE PROGRAMMING  
COMMITTEE OF THE CITY OF JOHANNESBURG  
AS LISTED IN ANNEXURE X**

Third to Fourteenth Respondent

---

**FOUNDING AFFIDAVIT**

---

I, the undersigned,

**MPHO PHALATSE**

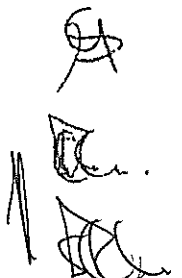
do hereby make oath and state that:

1. I am the Executive Mayor of the City of Johannesburg Metropolitan Municipality and the Applicant herein.
2. The facts herein contained are within my own personal knowledge and are both

SA  
Mpe.  
JCC.

true and correct.

3. I bring this application in my capacity as the aforesaid Executive Mayor because I believe the First Respondent has attempted, unlawfully, to call a meeting of Council of the City of Johannesburg. I am aware that one of the purposes of that meeting is to table a vote of no confidence against me.
4. I however bring this application because the meeting, as currently convened, is unlawful. The Programming Committee that decided to table a motion of no confidence at the meeting was not quorate when it made its decision. The notices giving notice of the meeting do not comply with the provisions of the Local Government: Municipal Structures Act 117 of 1998 (*"the Structures Act"*) and the Standing Rules and Orders of Council, 2016 of the City of Johannesburg (*"the Standing Rules"*).
5. As a consequence of the manner in which this meeting has been called, I submit the notice of the meeting and the meeting itself are invalid. The notice should thus be declared to be unlawful and invalid. In consequence of its unlawfulness and invalidity, the court should order that the meeting cannot take place. That would avoid the confusion and invalid results that would follow from such meeting and it would prevent prejudice to me.
6. On 29 September 2022 the First Respondent gave notice of such meeting scheduled for 10h00 on Friday, 30 September 2022. This application is consequently extremely urgent because that meeting cannot be allowed to proceed given that notice of the meeting is unlawful and invalid and because the chaos and uncertainty that will result if the meeting is allowed to proceed notwithstanding such illegality.
7. This application has been prepared in extreme haste and thus only deals with the bare minimum of allegations. I reserve my rights to supplement this affidavit if time permits.
8. The First Respondent is Councillor Colleen Makhubele, a Councillor of the City and a member of the COPE party. Yesterday, 28 September 2022, she was elected as the Speaker of the Council and thus now has the functions set out in Section 37 of the Structures Act.


Handwritten signature and initials in the bottom right corner of the page.

9. The Second Respondent is the City of Johannesburg Metropolitan Municipality, the legal entity a Municipality established in terms of the Structures Act. It is cited herein simply because it has an interest in the outcome of this matter as this matter relates to a meeting of its Council. No relief is sought against the City which, I submit, has an interest in the clarity which this application will provide. The Second Respondent is also being served by service of this application on the Secretary to the Council so he can ensure the councillors of the Second Respondent are all notified of it.
10. The Third to Fourteenth Respondents are the current members of the City's Programming Committee. That Committee is a Standing Committee of the Council which is established in terms of Section 79 of the Structures Act in order to oversee and regulate the programming of Council Agenda and proceedings. A copy of its terms of reference are attached as annexure "FA1". A list of those Respondent's is annexed to the Notice of Motion as annexure "X".
11. The full membership of the City's Programming Committee consists of the Second to Fourteenth Respondents as well as Councillors Da Gama and Sithole. The latter two people are no longer members of the Programming Committee because Da Gama was a member of that Committee when he held the position of Speaker of the Council. He was removed as such Speaker on 31 August 2022. Councillor Sithole is no longer a member of that Committee because his appointment as a Councillor at the City was revoked by his Political Party.
12. The meetings of the Council of the City are subject to the City's Standing Rules and Orders, 2016 (*"the Standing Orders"*) approved at that time by the Council of the City. In terms of section 30(f) of the Structures Act the First Respondent is obliged to ensure meetings of the Council take place in accordance with the Standing Orders. An extract from the Standing Orders reflecting the relevant portions relevant to this matter is annexed hereto marked as annexure "FA2". A copy of the full Standing Orders are well known to all the parties to this litigation and will be made available if required.
13. In terms of the Standing Orders the programming Committee "*must determine all business of the Council in accordance with these Rules*" (rule 62(1)). All Motions

GA  
RC  
1/2/23



intended for consideration before the Council must be submitted to the Secretary of the Council 14 days prior to a Council meeting (clause 94) and "*selected by the Programming Committee before it is considered by the Council*" (clause 95). This includes Motions of No Confidence.

14. Motions of No Confidence lodged against me were sent to the office of the Secretary around 17 August and 13 September 2022.
15. Notice of those motions was not given to me. I became aware of their existence because of much media speculation.
16. Notice of those motions was not given to the Council. They were not selected by the Programming Committee for consideration at the Ordinary Council meeting scheduled for 28 September 2022. The Programming meeting of August 2022 faced a concern that the motion was inadmissible in terms of rule 92(1) as being before a court of law. The Committee thus required further input from legal services. The Programming Committee did not at that meeting decide to place that motion for my removal on the agenda of any meeting. In confirmation of this I attach a copy of the minutes of the Programming committee meeting of 23 August 2022 as annexure "FA3" where the item was discussed at motion 5.
17. At the Ordinary Council meeting of 28 September 2022, the First Respondent was elected as Speaker. At the end of that meeting she on record and publicly enjoined all Councillors to enjoy the pending recess (from 1 to 10 October 2022). She recorded that she would be calling an extraordinary meeting of council after the recess.
18. In conflict with this however and at 13h09 on 29 September 2022 the First Respondent purported to give notice of an extraordinary meeting of the Programming Committee for 16h00 on 29 September 2022 seeking to program matters for a council meeting on 30 September 2022. A copy is annexed as "FA4". There was no explanation for the extreme urgency for the calling of such meeting. in my experience calling of Programming Committee meetings at such short notice are extremely unusual – after all its function is to logically and properly ensure the Council meetings run smoothly with due notice and planning.
19. That notice was distributed with a pack of the documents to be considered with



it. This included copies of the motions, questions for written reply and report and bylaws referred to in that notice. The motions included the motion of no confidence dated 13 September 2022, but not the one dated 17 August 2022. This is because the 17 August one still awaited the report back from legal services referred to in "FA3".

20. That notice was however not formally given to at least one of its members, Councillor Leah Knott, the Leader of executive Business. I don't know if this was intentional but she only got formal notice of that meeting at 16h03 on 29 September 2022 as appears from annexure "FA5" hereto. This I submit this improper notice of the meeting rendered it invalid. Councillor Knott did not attend the meeting because of the late notice she received.
21. That Committee was required to consider, amongst other things, which Motions would be considered to be admissible in terms of clause 92 and selected for consideration at the meeting of 30 September 2022 in terms of rule 95.
22. However, at 13h25 on 29 August the First Respondent then purported to give notice of an extraordinary Council meeting for 10h00 on Friday, 30 September 2022. A copy of this notice is annexed as annexure "FA6".
23. This was less than 20 hours' notice of that meeting with most of the notice period being after hours.
24. I accept the first Respondent's right to call Council meetings but submit that to call a meeting of the 270 Councillors of the City on less than a day's notice, without grounds of extreme urgency and special need, is in breach of the requirement that meetings must be called, that is be on notice which must be reasonable.
25. To exacerbate matters the notice was not followed by any pack of related documents and no one is able to prepare for the meeting or even know the substance of matters to be considered. The notice was also in conflict with the First Respondent's earlier announcement to the Council about events after recess.
26. Rule 55 requires 3 days' notice of ordinary meetings. There is no notice time

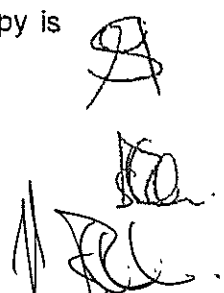
  


requirement for extraordinary meetings. However the past practice of the Council for at least the last six years has been to call extraordinary meetings on at least 3 days' notice. Rule 6(2)(b) requires the First respondent to have cognisance to this established practice. I am advised that in the absence of a time requirement, reasonable notice is required by law. Consequently, I have a right to reasonable notice of an extraordinary meeting of Council.

27. I submit 3 days would be reasonable. Anything less would have to be justified by good reason for shortened notice. I see no reason for notice at such short notice. There is no reason why a meeting to decide my removal cannot be called on 3 days' notice. There is no reason why my removal must be decided at a meeting tomorrow. Not only my rights to prepare for the meeting and be able to meaningfully contribute to a discussion on my removal and be available for it, but those of every other councillor are similarly harmed and prejudiced by this extremely short notice. Such short notice is an abuse of the powers of the Speaker and not aimed at the proper running of the affairs of the municipality but rather at political point scoring.
28. I point out that at that time no notice of the potential vote of no confidence against me had been or could have been given. It was not a competent item on the Council's agenda before it was considered by the Programming Committee.
29. I am aware that only the following members of the Programming Committee then later attended the Programming Committee meeting on 29 September 2022: Councillors Morero, Mgcina, Dlanjwa, Radebe, Arnolds and the First Respondent.
30. Councillor Ngobeni did attend the meeting at 16h00. There were only 5 other councillors present at that time. He raised an issue about the quorum of the meeting. The First Respondent mentioned that the meeting should just deal with the issue of the Vote of No Confidence against me. The meeting did not however start as those present waited for others to join. After an hour's wait Councillor Ngobeni left the meeting before any business had commenced. At that time Councillor Dlanjwa arrived. In consequence there were only 6 members present in that meeting.



31. The Standing Rules apply to all Committees of the Council (rule 4(6)). The definition of "*quorum*" means "*a total of 50% plus one of elected councillors*". As set out above the Programming Committee consists of 14 Councillors. Thus at least 8 Councillors had to be present for that meeting to quorate. That did not happen and I am advised the meeting could not adopt any valid resolutions. There are thus no valid items before the Council meeting called for 30 September 2022.
32. Even if the Programming Committee had a quorum of the majority of Councillors currently in office (12) there was not a majority present.
33. Insofar as it may be argued the above definition is not applicable to Committee meetings, I point out the Standing Rules have no other provisions dealing with Committee quorums. I am advised that in such circumstances a Committee can only function when all members are present. The meeting of 29 September did not meet this requirement.
34. On any basis the Programming Committee meeting of 29 September 2022 was inquorate and its resolutions invalid.
35. Notwithstanding this situation the Programming meeting continued and purported to accept that the motion for the Vote of No Confidence dated 17 August 2022 should be tabled at the meeting of 30 September 2022. Apparently the members present accepted that this included an item for the election of a new mayor if the vote of no confidence was successful.
36. These allegations about the occurrences at the Programming Meeting were confirmed to me by the Secretary of Council who was present. His confirmatory affidavit is attached. They will also be confirmed by a confirmatory affidavit of Councillor Ngobeni if required. The meeting was also recorded and the full recording will be made available if required.
37. At 18h05 on 29 September 2022 the First Respondent then purported to give an amended notice of a Council meeting for Friday 30 September 2022 at 10h00. Like the first one its content was vague. It however limited to agenda to only two substantive items – "Recommendations of Council" and "Motions". A Copy is annexed as annexure "FA6".

Handwritten signature and initials in the bottom right corner of the page.

38. While the Notice states "*the reports will follow in due course*" annexed to the email was a copy of the 17 August 2022 motion of no confidence. It is respectfully unclear whether that is one of the "*motions*" to be considered. Even if I must assume this I cannot possibly be in a position to answer such a motion on less than 16 hours' notice. It amounts to no real notice at all. Given the First Respondent's announcement at the end of the last council meeting it is difficult to estimate how many councillors will even see the notice before 10h00 on 30 September.
39. Moreover the 17 August motion was not before the Programming Committee on 29 September 2022. It was considered by the Programming Committee on 23 August 2022 and deferred until the Speaker received a response from legal services and then "*sent out a communication to the rest of the Committee members*" (annexure "FA3"). There has been no such communication and that motion has not subsequently been on the agenda of the Programming Committee.
40. Section 58 of the Structures Act deals with, so called, motions of no confidence in an executive mayor. It stipulates:
- "A municipal council, by resolution may remove its executive mayor or deputy executive mayor from office. Prior notice of an intention to move a motion for the removal of the executive mayor or deputy executive mayor must be given."*
41. The 13:25 and 18:05 notices do not give notice of an intention to move a motion for my removal.
42. The 18:05 notice can only be argued to do so because of an unexplained attachment to it. I submit that is ambiguous and insufficient notice which is not what section 58 of the Structures Act envisages. Such notice is in any event invalid as that item was not before the Planning Committee which was inquorate.
43. I have a statutory right to proper notice. That includes notice of intention to move a motion for my removal at the meeting tomorrow. I also have a legal right to



reasonable notice of a meeting called for that purpose.

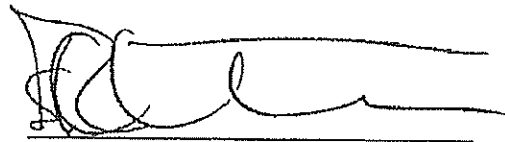
44. Consequently, the 13:25 and 18:05 notices are invalid and unlawful because they are in breach of s58 and they should be set aside for the reason that they do not give proper or reasonable notice of an intention to move a motion for my removal at the meeting.
45. Notwithstanding this clear breach of the Structures Act the First Respondent is persisting with her attempts to have such Vote held tomorrow.
46. As at the time hereof no further notice of the council meeting, nor distribution of papers relevant to it nor retraction of "FA5" has been given. The uncertainty which this creates is untenable. The First Respondent is respectfully causing the incurring of unnecessary costs, time wasting and uncertainty by this. Councillors are having to make arrangements to attend an invalidly called meeting but are unable to prepare for it.
47. I submit that in the circumstances the Notice of meeting is invalid and the meeting itself invalid as the items intended to be considered not competently before it.

#### URGENCY

48. I respectfully submit that this matter is extremely urgent. The dispute between the parties as to the Respondent's position commenced on 29 September 2022.
49. There was an objection to the Programming committee proceeding because of its quorum. This was ignored.
50. After becoming aware of the notice, attorneys were consulted for advice. As the First Respondent insists on acting unlawfully and has already given notice of her intentions by calling the meeting, it would be prudent to bring an urgent application at the earliest opportunity.
51. This application was launched with all due haste on 29 September 2022. The Respondents are being given a reasonable opportunity to answer hereto.



52. This application cannot be brought in the normal course on the ordinary role, or even semi-urgently. That would be too late. It would be after Friday, by when the harm envisaged would have taken place. The harm includes my not getting reasonable notice, not being able to prepare properly for the meeting, not being able to prepare to properly debate the motion at the meeting, not being able to prepare to persuade Councillors why the motion should not be carried.
53. If the Council meeting commences, the confusion and chaos caused by the Respondent's notice of meeting will have come into effect. The Councillors will not know whether they should attend the meeting to vote (which they should do if the meeting is validly caused) or not attend (because the meeting is invalid and any votes cast ineffective). If the meeting is invalid, the entire running of the process would have been wasted and the proceedings will have to subsequently then be set aside. During all of that time, the normal running of the business of the Council will be hamstrung as a result of the arising uncertainty.
54. Short of applying to court urgently as I do, I have no other remedy to declare the notices unlawful and invalid. Only the High Court can make such declaration and order that the meeting does not go ahead as a result.



DEPONENT

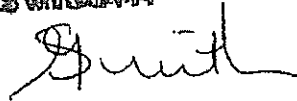
I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE/SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, WHICH WAS SIGNED AND SWORN TO BEFORE ME AT JOHANNESBURG ON THIS THE 20th SEPTEMBER 2022. THE REGULATIONS CONTAINED IN GOVERNMENT NOTICE NO. R1258 OF 21 JULY 1972, AS AMENDED, AND GOVERNMENT NOTICE 1648 OF 19 AUGUST 1977, AS AMENDED, HAVING BEEN COMPLIED WITH.



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COMMISSIONER OF OATHS

VICTORY PARK JOHANNESBURG  
61 ROAD No. 3  
ADMITTED ADVOCATE OF THE HIGH COURT  
COMMISSIONER OF OATHS EX OFFICIO  
MARSHA SMITH



**MARSHA SMITH**  
COMMISSIONER OF OATHS EX OFFICIO  
ADMITTED ADVOCATE OF THE HIGH COURT  
61 ROAD No. 3  
VICTORY PARK JOHANNESBURG

4 DEC

**IN THE HIGH COURT OF SOUTH AFRICA**  
**(GAUTENG LOCAL DIVISION, JOHANNESBURG)**

**CASE NO:**

In the matter between:

**THE EXECUTIVE MAYOR OF THE**  
**CITY OF JOHANNESBURG;                      MPHO                      PHALATSE**  
 Applicant

and

**THE SPEAKER OF THE CITY OF**  
**JOHANNESBURG: COLLEEN MAKHUBELE**                      First Respondent

**THE CITY OF JOHANNESBURG**  
**METROPOLITAN MUNICIPALITY**                      Second Respondent

**MEMBERS OF THE PROGRAMMING**  
**COMMITTEE OF THE CITY OF JOHANNESBURG**  
**AS LISTED IN ANNEXURE X**                      Third to Fourteenth Respondents

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**CONFIRMATORY AFFIDAVIT**

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I, the undersigned,

**MADIMETJA MOLEKWA**

do hereby make oath and state that:

1. I am the Acting secretary of the Council of the City of Johannesburg Metropolitan Municipality.

2. The facts herein contained are within my own personal knowledge and are both true and correct.
3. I have read the founding affidavit of Mpho Phalatse herein and confirm the content thereof insofar as relates to the meeting of the Programming Committee of 29 September 2022.

  
\_\_\_\_\_  
**DEPONENT**

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE/SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, WHICH WAS SIGNED AND SWORN TO BEFORE ME AT JOHANNESBURG ON THIS THE 30<sup>th</sup> SEPTEMBER 2022. THE REGULATIONS CONTAINED IN GOVERNMENT NOTICE NO. R1258 OF 21 JULY 1972, AS AMENDED, AND GOVERNMENT NOTICE 1648 OF 19 AUGUST 1977, AS AMENDED, HAVING BEEN COMPLIED WITH.

  
\_\_\_\_\_  
**COMMISSIONER OF OATHS**

**MARSHA SMITH**  
COMMISSIONER OF OATHS EX OFFICIO  
ADMITTED ADVOCATE OF THE HIGH COURT  
81 ROAD No. 3  
VICTORY PARK JOHANNESBURG



"MP15"

*Mindes*  
MINDE SCHAPIRO & SMITH

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E: karin@mindes.co.za | www.mindes.co.za

Our Ref: DEM16/0847/ELZANNE JONKER/ks | Your Ref: | Date: 2 October 2022

THE SPEAKER: [Colleen.makubele@gamil.com](mailto:Colleen.makubele@gamil.com); [colleenmak@joburg.org.za](mailto:colleenmak@joburg.org.za)  
THE EXECUTIVE MAYOR: [executivemayor@joburg.org.za](mailto:executivemayor@joburg.org.za)  
THE MUNICIPAL MANAGER: [BryneMa@joburg.org.za](mailto:BryneMa@joburg.org.za)

Dear Sirs / Madam

**URGENT COURT PROCEEDINGS REGARDING UNLAWFUL COUNCIL MEETING HELD ON 30 SEPTEMBER 2022**

1. We represent the DA and all of its councillors in the Johannesburg Municipal Council.
2. We have been instructed to launch urgent proceedings in the South Gauteng High Court to review and set aside the following:
  - 2.1 The Speaker's decision to call an extraordinary meeting on 30 September 2022;
  - 2.2 The Programming Committee's decision to place a motion of no confidence in the Executive Mayor on the agenda for that meeting;
  - 2.3 The decision of Council on 30 September 2022 to pass the motion of no confidence; and
  - 2.4 The decision of Council to elect Cllr Morero as the Executive Mayor.
3. We shall launch and serve the Application tomorrow morning, affording the parties until 12:00 on Wednesday, 5 October 2022 to file Answering Affidavits, if any.

Yours faithfully  
**MINDE SCHAPIRO & SMITH INC.**

per: *Emf*

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Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/025182/21

**Directors:** Heinrich Crous BA LLB | Elzanne Jonker BA LLB | \*Jonathan Rubin BComm LLB LLM | Venesen Reddy LLB  
**Senior Associate:** Gerhard Lourens FPSA® BA LLB  
**Associates:** Lauren Jacobs LLB | Marlon Koen LLB | Estian Maree BComm LLB  
**Consultants:** Louis Meyer BJuris LLB | Marianne Olivier BComm LLB LLM | Marais Hoon BA LLB | Patrick Stilwell BA LLB

Vat registration number: 4580257428 | \*Al Greenacres, Gqeberha (previously Port Elizabeth)

*REC*

## Elzanne Jonker

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**From:** Elzanne Jonker  
**Sent:** Sunday, 02 October 2022 11:59  
**To:** colleen.makhubele@gmail.com; colleenmak@joburg.org.za  
**Cc:** executivemayor@joburg.org.za; BryneMa@joburg.org.za; Karin Squier; Shannon Solomon  
**Subject:** Urgent Court Proceedings  
**Attachments:** Letter to Speaker, Mayor and MM 2 October 2022.pdf

Dear All

We attach a letter for your urgent attention.

Kindly acknowledge receipt.

Yours faithfully