



DA Mogale City Caucus
Caucus Leader: Tyrone Gray
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28/02/2024

To: Mr Jan Hattingh

Chief Director: Local Government Budget Analysis

Per email: jan.hattingh@treasury.gov.za

CC: Mr Ruaan Naude

ruaann@agsa.co.za

Office of the Auditor General

CC: Mr Owen Witbooi

MFMA Co-ordinator

owen.witbooi@gauteng.gov.za

RE: LACK OF CONSTITUTIONAL MUSTER IN RELATION TO ITEM NO: K(ii) 01 (02/2024)

REPORT: 2023/2024 PROPOSED ADJUSTMENT BUDGET

COUNCIL: 28 FEBRUARY 2024

Good Day Mr Hattingh, hope this communique finds you well.

As an expert in local government, especially in relation to budgeting, section 160(3)(b) of the Constitution of the Republic of South Africa, 1996 states that:

“All questions concerning matters mentioned in subsection(2) are determined by a decision taken by a Municipal Council with a supporting vote of a majority of its members.”

While the approval of budgets is clearly stated, approval of adjustment budgets requires the same envisioned constitutionality, as described further in the Municipal Finance Management Act No. 56 of 2003, whereby section 28(7) indicates that section 22(b), 23(3) and 24(3) bears reference to an adjustment budget as well as an annual budget.

This indicates that approval of adjustment budgets are regulated as annual budgets, especially when considering that a supporting vote of a majority of Municipal Council members is constitutionally required.

Mogale City Local Municipality (GT481) Council is composed of 77 seats, majority of members is therefore 39.

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After the DA indicated that 39 supporting votes are required to approve the abovementioned item, the item was “approved” by a ruling of the Speaker in the interpretation of rule 18 in the Rules of Orders of Mogale City Council, while only 36 councillors present gave a supporting vote.

The following councillors were absent from the meeting, with apologies noted and accepted. 4 from the ANC caucus, 3 from the EFF caucus. Which means that the total votes supporting the item were ANC:27, EFF:8, ATM:1 which is 36.

Please advise accordingly, as this matter may be prescribed by No. 12 of 2004: Prevention and Combating of Corrupt Activities Act, 2003, as misrepresentation.

Yours in good governance,

Ald. T. M Gray

Electronically signed.