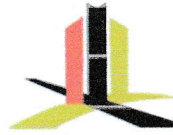


Received by: Eva Nyelanyane  
Nyelanyane  
12/05/2021



**MANGAUNG**  
METRO MUNICIPALITY  
METRO MUNISIPALITEIT  
LEKGOTLA LA MOTSE

DIRECTORATE  
CORPORATE SERVICES

Ward Councillors

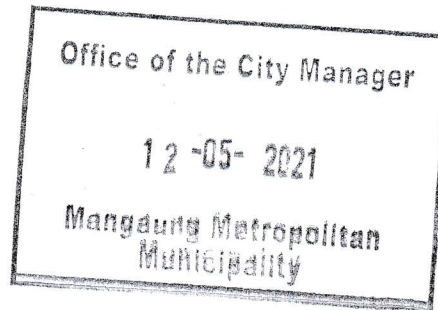
11 May 2021

**THE ACTING EXECUTIVE MAYOR**  
Ch LA Masoetsa

**THE MUNICIPAL MANAGER**  
Adv Tankiso Mea

BY HAND.

**BRAM FISHER BUILDING,  
BLOEMFONTEIN  
9301**



Mr Masoetsa and Adv Mea

**RE: LOCAL GOVERNMENT: DISCIPLINARY REGULATIONS FOR SENIOR MANAGERS HEAD OF DEPARTMENT  
FLEET AND WASTE MANAGEMENT**

The Democratic Alliance tables the following allegations of mal administration and misconduct by the Head of Department, Fleet and Solid Waste Management, , and request a formal investigation in accordance with the Municipal Systems Act Disciplinary regulations for senior managers.

Section 5 of the disciplinary regulations reads as follow.

**Disciplinary procedures**

- (1) Any allegation of misconduct against a senior manager must be brought to the attention of the municipal council.
- (2) An allegation referred to in sub-regulation (1) must be tabled by the mayor or the municipal manager, as the case may be, before the municipal council not later than seven [7] days after receipt thereof, failing which the mayor may request the Speaker to convene a special council meeting within seven [7] days to consider the said report.
- (3) If the municipal council is satisfied that -
  - (a) there is a reasonable cause to believe that an act of misconduct has been committed by the senior manager, the municipal council must within seven [7] days appoint an independent investigator to investigate the allegation[s] of misconduct; and

PO Box 3704, Bloemfontein 9300 Room ###, #th floor, Bram Fischer Building,  
Cnr Nelson Mandela & Markgraaf Street. Tel: +27 51 ### #### Fax: +27 51 ### ####  
E-Mail: name@civic.mangaung.co.za Website: [www.mangaung.co.za](http://www.mangaung.co.za)

(b) there is no evidence to support the allegation[s] of misconduct against the senior manager, the municipal council must within seven [7] days dismiss the allegation[s] of misconduct.

(4) The investigator appointed in terms of sub-regulation (3)(a) must, within a period of thirty [30] days of his or her appointment, submit a report with recommendations to the mayor or municipal manager, as the case may be.

(5) The report contemplated in sub-regulation (4) must be tabled before the municipal council in the manner and within the timeframe as set out in sub-regulation (2).

(6) After having considered the report referred to in sub-regulation (4), the municipal council must by way of a resolution institute disciplinary proceedings against the senior manager.

(7) The resolution in sub-regulation (6) must-

(a) include a determination as to whether the alleged misconduct is of a serious or a less serious nature;

(b) authorise the mayor, in the case of municipal manager, or municipal manager, in the case of the manager, directly accountable to the municipal manager to

(i) appoint -

(aa) an independent and external presiding officer; and

(bb) an officer to lead evidence; and

(ii) sign the letters of appointment.

The Democratic Alliance attach the following Annexures to serve as evidence against the allegations tabled for your convenience.

1. Annexure A National Environmental Management
2. Annexure B National Domestic Waste Collection Standards
3. Annexure C Constitution of South Africa
4. Annexure D Local Government System Act
5. Annexure E Municipalities and provinces directions, 25 Mar 2020
6. Annexure F Mangaung Code of Conduct Municipal Staff Annexure G LETTER OF DEMAND Delivery of Basic Services in MMM 9 June 2020
7. Annexure G Performance-Agreement Mr SJ More
8. Annexure H LETTER OF DEMAND Delivery of Basic Services in MMM 9 June 2020
9. Annexure I Letter Waste Removal 18 December 2020
10. Annexure J SAMWU Letter of demand 7 January 2021
11. Annexure K Bylaw Waste Management 2013

#### **Allegations of misconduct and mal administration**

**ALLEGATION 1** fails to comply with or contravenes any Act, regulation, or legal obligation relating to the employment relationship. comply (Annexure A, B and C)



The Democratic Alliance tables the following National Acts that the Head of Department Fleet and Waste Management did not adhere to.

A. The National Environmental Management Act, 1998 (Act No. 107 of 1998)

- a. The National Environmental Management Act, 1998 (Act No. 107 of 1998, abbreviated NEMA) is the statutory framework to enforce Section 24 of the Constitution of the Republic of South Africa. The NEMA is intended to promote co-operative governance and ensure that the rights of people are upheld, but also recognising the necessity of economic development. NEMA supersedes the Environmental Conservation Act, which was inadequate to deal with enforcement, administration, and governance, and was written to be more successful in these aspects.
- b. The purpose of the Act provides for co-operative, environmental governance by establishing principles for decision-making on matters affecting the environment, institutions that will promote co-operative governance and procedures for co-ordinating environmental functions exercised by organs of state; and to provide for matters connected therewith

- **COMPLAINT** Refuse removal within the Mangaung Metro has become a major health risk as refuse is not removed on a regular basis. Councillors receive complaints weekly of refuse not collected or the collection is done days after the scheduled day.

During the Covid pandemic, the DA calculated that refuse were not collected or collected days later for 26 weeks to date. The DA send two letters of demand to the Municipal Manager and the HOD for solid waste management for refuse collection together with other basic services to be improved.

B. National Domestic Waste Collection Standards

- a. Frequency of collection: Acknowledging that waste minimisation is encouraged, the frequency of waste collection must not encourage illegal dumping or cause a nuisance in terms of odours and volumes of waste being stored.
- **COMPLAINT** Due to the insufficient collection of waste the Mangaung Metro Municipality needs to remove refuse from illegal dumping sites. Residents become frustrated of the smell and would then take their uncollected refuse to open parks and cemeteries to dump it there.
- b. Non-recyclable waste must be removed at least once a week.
- **COMPLAINT** The collection of non-recyclable waste is not collected consistently within the Mangaung metro. This due to availability of compactors during the week and payment of overtime of each month.
- c. Maintenance schedules must be adhered to and roadworthiness of vehicles ensured where applicable in order to ensure a reliable waste collection service.

- **COMPLAINT** The Mangaung Metro needs 19 compacter trucks daily to collect refuse daily and the current fleet of compactors within the metro is 6 compactors. Compactors need to have a scheduled maintenance timeframe but due to mal administration, trucks are not serviced as required to do refuse collection properly.

MMM presently operates its fleet on a system of centralised ownership, which means that Fleet Services budget for the repair and maintenance of entire municipal fleet. Fleet Services also maintains and repairs these vehicles, predominantly on request and partially on determined schedules. User directorates are responsible for utilization of fleet, performing daily inspections and operating fleet and associated equipment.

- d. Health and Safety: In addressing the general health of the waste collection workers, all waste collection workers must receive:
  - i. regular medical check-ups to ensure their health and well-being~
  - ii. appropriate personal protective equipment e.g. gloves, masks, overalls and raincoats, gumboots; and
  - iii. ongoing training on health and safety issues.
- e. Existing Occupational Health and Safety legislation must be adhered to.
- **COMPLAINT Annexure J SAMWU Letter of demand 7 January 2021 subsection 5 LACK OF VEHICLES AND THE TOOLS OF TRADE** reads All directorates in the Metro are struggling with operational vehicles and tools of trade not excluding PPE
- f. Weekly waste collection must be done on the same day every week according to the municipality's schedule.
- g. When the scheduled municipal services are interrupted for whatever reason, the municipality must resume the service as soon as is practical and address all backlogs so caused as a matter of priority.
- h. When collection has been missed the waste must be removed not later than on the next scheduled collection day.
- **COMPLAINT** Waste collection and rubbish disposal play an extremely important role in the global cleanliness and sustainability drive, with people's health and the conservation of resources being the responsibility of every government. Councillors of the Mangaung metro has also received complaints that rodents and snakes is becoming a concern as the piles of non-collected refuse is attracting these pests.
  - i. All communication to household residents must be via the waste management officer.
  - i. waste collectors may not intimidate household residents.
- **COMPLAINT** Councillors receive complaints from residents that not all refuse are collected and when they ask the municipal staff why not all their bags are collected, the staff would request a bribe or intimidate residents.

#### C. Constitution of South Africa

- a. Section 24 reads Everyone has the right— to an environment that is not harmful to their health or wellbeing.



- b. Section 152 reads Objects the objects of local government are—
- i. to provide democratic and accountable government for local communities.
  - ii. to ensure the provision of services to communities in a sustainable manner;
  - iii. to promote a safe and healthy environment

- **COMPLAINT Annexure E Municipalities and provinces directions, 25 Mar 2020 SUBSECTION 6.4.1** reads The control of the transmission of the virus will require extra- ordinary cleansing and sanitization of public facilities. Since the gazette of these regulations in March 2020, the DA has calculated that refuse was not collected or collected days later for 28 weeks to date. Residents complain that the Mangaung Metro is no longer the City of Roses but a dumpsite.

**ALLEGATION 2:** endangers the lives of self or others by disregarding safety rules or regulations. (Annexure E, i and j)

- a. During the Covid 19 lockdown period, the DA received complaints from residents that provision of waste management services was not delivered.
- **COMPLAINT Annexure E Municipalities and provinces directions, 25 Mar 2020 SUBSECTION 6.4.1** reads the control of the transmission of the virus will require extra- ordinary cleansing and sanitization of public facilities. Since the gazette of these regulations in March 2020, the DA has calculated that refuse was not collected or collected days later for 28 weeks to date. Residents complain that the Mangaung Metro is no longer the City of Roses but a dumpsite.

**ALLEGATION 3** prejudices the administration, discipline or efficiency of a municipality, office, or institution of the municipality. (Annexure D)

- a. Performance Management
    - i. No disciplinary action taken against municipal staff for noncompliance or performance.
- **COMPLAINT Annexure D Local Government Systems Act Schedule 2 subsection (3)(a)** reads participate in the overall performance management system for the municipality, as well as the staff member's individual performance appraisal and reward system, if such exists, in order to maximise the ability of the municipality as a whole to achieve its objectives and improve the quality of life of its residents.  
Several illegal protest action were undertaken by municipal staff and no consequence management were implemented by the HOD responsible for Solid Waste and Fleet Management.

**ALLEGATION 4** performs poorly or inadequately for reasons other than incapacity. (Annexure H)

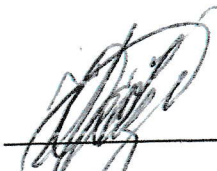
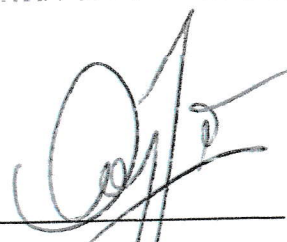
The Key Performance areas will make up 80% of the Employees assessment score and will contain the following.

- a. Basic Service Delivery
- **COMPLAINT Annexure I Letter Waste Removal December 18 2020 par 1** reads It has become an annual habit for Mangaung Waste Removal to deteriorate from early in the financial year until the new budget is passed again allowing for a month or two where removal sometimes happens

on time. Similarly, it has become a habit for the top leadership and management to simply keep quiet or revert to the same excuses year after year, month after month. waste removal is a basic service that needs to be collected once a week. The Mangaung Metro waste removal is not consistent since 2016.

**ALLEGATION 5** contravenes the Code of Conduct for municipal staff members contained in schedule 2 of the Act. (Annexure F, K)

- b. A staff member of a municipality must at all times loyally execute the lawful policies of the municipal council
- **COMPLAINT Noncompliance to municipal by-laws: Mangaung Waste Management Bylaw**
- c. Commitment to serving the public interest.
- **COMPLAINT** Since the start of the covid pandemic in March 2020, refuse was not collected or late collection for 28 weeks.
- d. act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised. (Annexure K)
- **COMPLAINT** No refuse collection and does not keep to the schedule to maintain the fleet of the Mangaung Metro.
- e. promote and seek to implement the basic values and principles of public administration described in section 195 (1) of the Constitution.
- **COMPLAINT** Section 195 of the Constitution sets out the principles and values governing public administration. These include transparency, responsiveness, accountability, and the efficient, economic, and effective use of resources.
- We as the DA request that during the investigative process, Mr Sello More be placed on temporary suspension, in order for the process to be conducted free from interference and in a transparent and fair manner.

  
Proposed by: Clir Dirk Kotzé  
Seconded by: Clir David McKay