



DEMOCRATIC ALLIANCE CAUCUS
Ekurhuleni Metropolitan Municipality

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To: Infrastructure and Development
and Cooperative Governance and
Traditional Affairs,
Hon Jacob Mamabolo

Ref: Vacancy of Chairperson of
Finance Committee – City of
Ekurhuleni

Enquiries:

Cllr. Lucky Dinake

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Ekurhuleni

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Date: 21 January 2025

RE: REQUEST TO COMPEL COUNCIL TO FILL THE VACANCY OF FINANCE COMMITTEE CHAIRPERSON – CITY OF EKURHULENI

Dear MEC Mamabolo

I write to you to request that as the *MEC for Co-operative Governance and Traditional Affairs*, you compel Council within the City of Ekurhuleni, through the Speaker of Council, to urgently fill the vacancy for the Chairperson Section79 committee Finance.

1. Relevant Legislation

Vacancy of Committee Chairperson

According to **Rule 115** of the **Council Standing Orders By-Law:**

(1) As soon as possible after an election or whenever the position of Chairperson of a Committee is vacant, the Council must, from among its members, elect a Councillor to serve as a Chairperson of that Committee.

*(2) Whenever the position of Chairperson of a Committee is vacant, the Council must within **30 days, from among its members**, elect a Councillor to serve as a Chairperson of that committee.*

Role of the Speaker

The Speaker of Council is obligated in terms of Section 37 of the Municipal Structures Act, to not only carry out his/ her duties as Chairperson of the Municipal Council under the

prescripts of the Act, the Municipality's Rules of Order, Common Law and Tradition, but to exercise his/her power as may be delegated in terms of the municipality's system of delegation. This includes the functionality of Section 79 Committees.

2. Background To Subject Matter

At the Extraordinary Council Meeting, 31 September 2024, Alderman Pelisa Nkunjana was elected Whip of Council. This resulted in the vacancy of the position of Finance Committee Chairperson, which Alderman Nkunjana previously held.

On the 4th of October 2024, the Democratic Alliance (DA) in Ekurhuleni forwarded a request for a legal opinion on the proceedings of the scheduled Finance Oversight Committee and its reports to the Council, given the vacancy of the Committee Chairperson. **(Annexure A)**

A legal opinion was received in response to our letter **(attached as Annexure B)**. However, the legal opinion used Rule 7 (3) to irregularly frame Rule 117 (2) of the Standing Orders By-Law on "*the absence of a committee chairperson*", when in fact, provision is made for the election of the Committee Chairperson in Rule 115 in the event of a vacancy, which is contravened without valid reason or cause.

The use of Rule 7 (3) is subject to use in Council (procedural rule) and should be read in conjunction with Rule 7 (Sub-Rules 1-2), where the Speaker is requested to give a ruling on interpretation "whenever a question arises". The Speaker of the Council cannot act on his/ her own accord unless provided for in terms of legislation and when requested by the Council.

Despite numerous council meetings and Finance Oversight meetings, the position of Finance Chairperson remains vacant.

Subsequently, in the **22 November 2024, Programming Committee Meeting**, DA Committee Member, Cllr. Tiaan Kotze inquired as to why the vacancy is not on the Council Agenda for the **Ordinary Council Meeting of 28 November 2024**. The Speaker of Council, Cllr. Nthabiseng Tshivhenga stated that "*the filling of the vacancy would be prioritised in the new year, 2025*".

Currently Council is in contravention of Rule 115 (2) of the Standing-Orders By-Law as the position has now been **vacant for over 90 days (70+ business days)**.

Delaying the election of the Chairperson of the Committee not only affects the performance of the Committee but has a bearing on the financial oversight and reporting function of the Council.

The DA has written to the Speaker of Council in this regard **(Annexure C)**.

3. Conclusion

The DA therefore requests that you compel the Speaker of Council, Cllr. Nthabiseng Tshivhenga to call for the election of the Chairperson of the Finance Oversight Committee for the 30th of January 2025 Council Meeting.

Please provide a response by the close of business on **Friday, 24 January 2025**.

Electronically Signed

Cllr. Lucky Dinake

Chief Whip

Democratic Alliance Caucus, City of Ekurhuleni

20/01/2025