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EASTERN CAPE MEC FOR COGTA

Date: 17th March 2026

Honourable Zolile Williams

Dear Hon MEC,

RE: ACTING APPOINTMENT OF EXECUTIVE DIRECTOR OF SAFETY AND SECURITY NMBM - MR SHADRACK SIBIYA

The above matter refers pertaining to the unlawful acting appointment of Mr Sibiya as the Executive Director of Safety and Security of the Nelson Mandela Bay Municipality since mid 2024.

Mr Sibiya had been appointed as the Acting Executive Director of Safety and Security of the Nelson Mandela Bay Municipality on 3 January 2025 subsequent to a Council resolution dated 12 December 2024. You will be aware of the provisions of Section 56 of the Local Government: Municipal Systems Act No. 32 of 2000 and specifically Section 56 (1) which reads as follows:

56. (1) (a) A municipal council, after consultation with the municipal manager, must appoint—

- (i) a manager directly accountable to the municipal manager; or*
- (ii) an acting manager directly accountable to the municipal manager under circumstances and for a period as prescribed.*

(b) A person appointed in terms of paragraph (a)(i) or (ii) must at least have the skills, expertise, competencies and qualifications as prescribed.

(c) A person appointed in terms of paragraph (a)(ii) may not be appointed to act for a period that exceeds three months: Provided that a municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a), for a further period that does not exceed three months

In this regard Mr Sibiya's appointment was extended on 13 March 2025, 28 June 2025, 1 October 2025 and 1 January 2026, an appointment which he still holds.

As such the actions of the Acting City Manager is clearly in contravention of the above provisions of the Systems Act. The initial appointment on 3 January 2025 which was made as per a Council resolution is only allowable for a period of three months whereafter Council may in special circumstances and on good cause shown, apply in writing to yourself to extend the period of appointment contemplated for a further period that does not exceed three months

There has been no further Council resolution subsequent to the initial appointment of Mr Sibiya to remain in the acting position of Executive Director of Safety and Security and no application to yourself for the extension of the acting period of Mr Sibiya beyond the initial three month period has been made. Such application, if successful, may lawfully only be extended for a further period of three months. Presently he has been occupying the acting position well in excess of the lawfully prescribed period of six months.

This position has been confirmed in the matter of *MEC: Local Government: Environmental Affairs and Development Planning, Western Cape v Knysna Municipality and Others* wherein it was held as follows:

"A person appointed in accordance with section 56(1)(a)(ii) may only be appointed for a single period of three months. This single period may be extended on a single occasion for a limited three months. This extension may occur after the Council, in special circumstances and on good cause shown, applied to the MEC for such extension.

Section 56(1)(d) affords the MEC a similar role in respect of permanent appointments as it does in respect of acting appointments."

Taking into account the above it is clear that the further appointment of Mr Sibiya was made in contravention of the Systems act. Further to this it follows that all decisions made by Mr Sibiya while unlawfully appointed are null and void.

In this regard any interested parties may apply to the Court for the review and setting aside of all decisions and actions taken by Mr Sibiya which exposes the Municipality to substantial legal risk.

We thus call upon yourself to act in regularising this situation with immediate effect, including bringing an application for the review of the unlawful actions of the NMBM in this regard.

Regards



GUSTAV RAUTENBACH
DA CAUCUS CHIEF WHIP: NMBM

Copy: Acting City Manager

Copy: Executive Mayor

Copy: MPL Hon. Retief Odendaal