



## GAUTENG PROVINCE

CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS  
REPUBLIC OF SOUTH AFRICA

### **MEDIA STATEMENT ON THE OUTCOME OF AN INVESTIGATION CONDUCTED BY ADV WILLIAM MOKHARE SC IN TERMS OF SECTION 106(1)(b) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT NO. 32 OF 2000, AS AMENDED, INTO ALLEGATIONS OF MALADMINISTRATION, FRAUD, CORRUPTION AND SERIOUS MALPRACTICE THAT HAS OCCURRED AT THE RAND WEST CITY LOCAL MUNICIPALITY; THE CURRENT STATUS CONCERNING A NUMBER OF ALLEGATIONS OF IMPROPRIETY IN SEVERAL MUNICIPALITIES IN THE PROVINCE OF GAUTENG AND THE APPOINTMENT OF DELOITTE CONSULTING TO CONDUCT A FRAUD DETECTION REVIEW ON THE TOP 10 CONTRACTS IN MUNICIPALITIES**

**22 April 2021**

Let us welcome you all to this important Media Briefing, called to publicly announce the outcome of an investigation conducted by Adv William Mokhare SC in terms of section 106(1)(b) of the Local Government: Municipal Systems Act No. 32 of 2000, as amended ("the Systems Act"), into allegations of maladministration, fraud, corruption and serious malpractice that has occurred at the Rand West City Local Municipality, to provide feedback on the current status concerning a number of allegations of impropriety in several municipalities in the Province of Gauteng and to announce the appointment of Deloitte Consulting to conduct a fraud detection review on the Top 10 Contracts in Municipalities.

### **OUTCOME OF AN INVESTIGATION CONDUCTED BY ADV WILLIAM MOKHARE SC IN TERMS OF SECTION 106(1)(B) OF THE SYSTEMS ACT, INTO ALLEGATIONS OF MALADMINISTRATION, FRAUD, CORRUPTION AND SERIOUS MALPRACTICE THAT HAS OCCURRED AT THE RAND WEST CITY LOCAL MUNICIPALITY**

We received a number of allegations of impropriety levelled against the Municipal Manager, the Executive Mayor and the Rand West City Local Municipality. We viewed the allegations in a very serious light with far-reaching ramifications on both the integrity and governance of the Municipality. The MEC, as the responsible executive authority for local government in the Province, therefore deemed it appropriate to afford the Executive Mayor with an opportunity, in accordance with the *audi alteram partem* principles (rules of natural justice), to provide him with a comprehensive response to all the allegations.

The Executive Mayor, in a letter dated 30 October 2020, submitted the said responses. The MEC, after carefully considering the Executive Mayor's response, held the view that it was necessary to designate an independent person to objectively investigate all the allegations of maladministration, fraud, corruption and serious malpractice levelled against the Municipal Manager, the Executive Mayor and the Municipality.

To that end, the MEC, in accordance with his powers vested under section 106(1)(b) of the Systems Act, duly instructed the Office of the State Attorney to appoint a Senior Advocate to conduct an investigation into all the allegations levelled against the Municipal Manager, the Executive Mayor and the Municipality. The State Attorney accordingly briefed Adv William Mokhare SC, who was assisted by two Junior Counsels.

The **TERMS OF REFERENCE** of Adv Mokhare SC was to enquire into, make findings and recommendations on the following:

- That the Municipal Manager (MM) is under investigation by the Hawks for corruption and mismanagement, and if so, did the MM fraudulently claim that criminal charges against him have been withdrawn.
- That the MM mismanaged and amount of R1.5 billion in the 2018/19 financial year.
- That the MM appointed an illegal immigrant, Mr Zivanai Katikiti without a proper work permit.
- That the MM irregularly appointed Khwane Fleet for an amount of R500 million to lease yellow fleet.
- That the MM irregularly appointed Transition Capital Recoveries for debt collections.
- That the MM is not filling vacant positions in order to appoint “his companies” such as Tshepang, TCR, Cijicell.
- That officials in political offices were appointed as managers without the required minimum relevant qualifications: Tshidiso Tlharipe, Tshidiso Mooketsi and Mokhufi Mahuma.
- That the Executive Mayor appointed Ms Nora Lion as Chief Financial Officer, the number two (2) candidate, overlooking the recommended candidate.
- That the appointed CFO is a relative of the executive Mayor.
- That the Manager: MPAC, Mr Mokhufi Mahuma is conflicted in his role because he is the husband to the Executive Mayor.

Adv Mokhare SC has now completed the investigation and made the following **FINDINGS**, which, for the sake of completeness, are set out below in full:

- The Municipal Manager committed gross misconduct by fraudulently claiming that the criminal investigation by the DPCI (Hawks) against him on allegations of corruption and mismanagement of municipal finances have been withdrawn when he knew or reasonably ought to have known that it was false;
- The Municipal Manager has mismanaged the finances of the Municipality to the tune of approximately R1.5 billion during his tenure as Municipal Manager from July 2017 when he was appointed to date, in that during this subsequent financial years, viz 2017/18; 2018/19 and 2019/20 Unauthorised, Irregular, Fruitless and Wasteful expenditure ballooned to over R1.5 billion, arising from irregular appointment of service providers, late payment or non-payment of service providers thus attracting interest running into millions of rands, fraudulent appointment of service providers and fraudulent payment of service providers; **(It should be noted that the MM did not steal R 1,5 billion but his mismanagement of the finances refers to his failure, as the accounting officer, to observe and comply with the applicable financial management legislation such as the MFMA, when dealing with the finances of the Municipality)**
- The Municipal Manager did not appoint Mr. Zevanai Katikiti, a Zimbabwean illegal immigrant in the Municipality because Mr Katikiti was already an employee of the Municipality when the Municipal Manager was appointed. However, the Municipal Manager irregularly authorised the

payment of salary to Mr Katikiti in September and October 2020 when Mr Katikiti rendered no services to the Municipality due to his detention and deportation by the Department of Home Affairs. The Municipal Manager has thus committed gross misconduct;

- The Municipal Manager did not appoint Kwane Fleet for the supply of yellow fleet because that tender followed the normal procurement processes. However, the Municipal Manager irregularly appointed Kwane Fleet for the supply of commercial vehicles contract because Kwane Fleet submitted fraudulent documentation in obtaining the tender. However, the contract was cancelled at the behest of Council and no expenditure was incurred;
- The Municipal Manager irregularly appointed Transaction Capital Recoveries, formally MBD, to provide debt collection services for the Municipality;
- There is no evidence that the Municipal Manager deliberately is not filling vacant posts in order to benefit companies such as Tshepang, TCR and Cijicell. However, the slow pace of filling vacancies is a cause for concern;
- There is no evidence that Mr Tshidiso Tlharipe and Mr Mokhufi Mahuma do not have the requisite qualifications for the positions they occupy. They have the necessary qualifications. Mr Tshidiso Mooketsi did not have the requisite qualification when he was appointed in 2007. However, he had the necessary experience and performed well in his job and during the interview. The time lapse is inordinate to impugn his appointment and he has since been placed in another position in the Municipality;
- The Executive Mayor did not appoint Ms Nora Lion. She was appointed by the Council. However, the recommendation of the Executive Mayor to Council that Ms Lion be appointed despite being the second ranked candidate was justified in the light of the undisputed fact that there was only one female in senior management out of a total of ten senior management positions;
- No credible evidence was found that Ms Lion and the Executive Mayor are related to each other and nobody came forward to substantiate the allegations. The investigation therefore accepted Ms Lion and the Executive Mayor's denials that they are not related;
- There is no conflict of interest in Mr Mahuma occupying the position of Manager MPAC when his wife, Ms Brenda Mahuma is the Executive Mayor;
- The Speaker of Council has improperly interfered with the submission of MPAC report to Council for consideration by refusing to allow the Chairperson of MPAC to present the report despite the pressing need for Council to dispose of it due to its critical importance to the UIFW incurred by the Municipality. The Speaker must be held accountable through the invocation of the Councillors Code of Conduct for subverting Council's work.
- The Speaker should permit the Chairperson of MPAC to table the report to Council for discussion and adoption as a matter of priority;
- Council should be held accountable for failing to hold the Municipal Manager to account for the UIFW which has accumulated astronomically over a period of four years under his watch;
- The Municipal Council has become significantly dysfunctional and unable to perform its executive and statutory obligations;

- The Municipality has fraudulently awarded a tender for the removal of 241 containers from the Mohlakeng sports ground to a politically connected company, Aredireng and the owner of the company, Mr. O. J Tsabone, and paid the company R1.7 million for the work not done.

Following the abovementioned findings, Adv Mokhare SC made the following **RECOMMENDATIONS**, which, for the sake of completeness, are captured below:

- Council should immediately and urgently take steps to commence the process of suspending the Municipal Manager from office, pending an investigation on his gross misconduct or pending the disciplinary inquiry to be instituted against him;
- Given the fact that Council has shown reluctance to do so in the past as evidenced in this report, should Council not take the necessary steps as aforesaid, the Provincial Executive should intervene in terms of section 139 and appoint an administrator who will ensure that executive obligations of the Municipality are performed diligently and without delay;
- Council should institute disciplinary proceedings against the Municipal Manager for gross misconduct set out in the report;
- The Speaker should be held accountable for failing to perform her duties as Chairperson of Council and for obstructing the work of MPAC by not assisting MPAC in tabling its UIFW report to Council;
- Council should invoke section 32 of MFMA to recover from the Municipal Manager the salary paid to Mr. Katikiti for September and October 2020, as well as the leave days paid when the Municipal Manager knew at the time that the employment contract of Mr Katikiti was unlawful;
- Council should take steps to recover from the Municipal Manager, jointly and severally with Mr. Gregory Seitei, Mr. Vusi Radebe and Aredireng / O.J Tsabone the sum of R1.7 million which was fraudulently paid to Aredireng/ O. J. Tsabone;
- Disciplinary steps should be taken against Mr. Castro Mosina, Ms. Hlengiwe Sithole, Mr. Gregory Seitei and Mr. Vusi Radebe;
- Council should invoke the Code of Conduct for Councillors to investigate the role played by Cllr Ally Mosina in the Mohlakeng sports ground tender;
- The Provincial Executive Committee should consider whether it would not be appropriate in the circumstances spelled out in the report to place the Municipality under administration with specified powers left for Council to perform.

There is no doubt that the investigation Report has made serious findings of maladministration, fraud, corruption and malpractice in Rand West City Local Municipality. The findings by Adv Mokhare SC are extremely damaging to the credibility of both the Municipal Council and the entire management of the Municipality. The fact that the Municipal Council and the Executive Mayor failed to deal with irregular, fruitless and wasteful expenditure including allegations of corruption and maladministration against the Municipal Manager is an indictment to the entire leadership of the Municipality. Payment of millions of rands to a service provider for doing nothing, appointment of an illegal immigrant and paying him salary and leave days without rendering services to the Municipality amongst other corrupt activities are beyond comprehension. It is inexcusable by any standard that the Municipality failed to present the MPAC Report before Council for deliberations and decision-making for the past four years. Clearly, the

Municipality dismally failed to execute its executive and statutory obligations in terms of the Constitution and applicable legislation.

We note that Adv Mokhare SC has recommended that disciplinary steps be taken against the MM and Speaker of Council for their specific roles. In particular, that the MM be subjected to suspension whilst Council invokes disciplinary proceedings. Also, we further note that SC recommends that the Provincial Executive Committee must consider invoking section 139 of the Constitution by taking certain executive functions from the Municipal Council.

It is therefore our considered view that the findings embedded in the report are indeed damning even more than what was reported in the public domain. As a result, the Executive Council at its ordinary meeting held on 31 March 2021 accepted the outcome of the investigation and mandated the MEC to ensure that the recommendations are given effect to. To that end, the MEC dispatched the Report to the Municipality with a clear directive to implement the recommendations in full. The said directive also directs the Municipality to, within fourteen (14) days of receipt of the Report, provide the MEC with an action plan indicating how the recommendations will be implemented. It should be noted that the Executive Council is still seized with the recommendation pertaining to the invocation of section 139 of the Constitution. Once the Executive Council has made a determination in this regard, a formal pronouncement will be communicated accordingly.

The MEC has further, within the spirit of the provisions of section 106(4)(b) of the Systems Act, requested the Speaker of the Gauteng Provincial Legislature to facilitate the tabling of the Investigation Report which details the outcome of the investigation in the Provincial Legislature and simultaneously send a copy of the Report to the Minister of COGTA, the Minister of Finance, the National Council of Provinces, the Gauteng Portfolio Committee on COGTA, the President of the South African Local Government Association and SALGA Gauteng.

The EXCO have carefully considered the outcome of the investigation and are deeply disturbed by same. We trust that the Municipality will now, without fail, ensure that the necessary remedial action as alluded to above is implemented accordingly.

## **CURRENT STATUS CONCERNING A NUMBER OF ALLEGATIONS OF IMPROPRIETY IN SEVERAL MUNICIPALITIES IN THE PROVINCE OF GAUTENG**

Various allegations of maladministration, fraud, corruption and serious malpractice that has occurred or is occurring in certain municipalities in the Province was brought to the attention of the MEC. Below is a very brief and high level synopsis of the allegations of impropriety at the municipalities in question:

### **Sedibeng District Municipality**

#### **Allegations of maladministration, fraud, corruption and serious malpractice**

In July 2020, the MEC received a number of allegations of impropriety levelled against the late Municipal Manager of Sedibeng District Municipality and the Municipality. Following written engagements with the late Executive Mayor of Sedibeng on the said allegations, MEC deemed it appropriate to instruct the State Attorney to appoint a Senior Advocate to conduct an independent investigation. Adv William Mokhare SC was appointed and he concluded the investigation.

You will recall that the Investigation Report was publicly released. The investigation found compelling evidence that substantiated the allegations and made recommendations to remedy the wrong doing that has occurred. The Investigation Report served before EXCO and EXCO accepted the outcome of the

Investigation. The complete report was submitted to the Municipality with a directive to implement all the recommendations as contained therein.

The Department has now recently and after several reminders, received a progress report from the Speaker of Council on the steps that had been initiated to give effect to the recommendations. We are in the process of studiously surveying the said report.

On the question of the Councillors' liability in respect of the irregular salary awarded to the late Municipal Manager, some Councillors has made representations, whilst others, without any reason, failed to respond. The MEC has received an opinion from SC on the matter and the advice contained in the opinion is under due consideration. The MEC will make a pronouncement on this matter soon.

### **City of Johannesburg Metropolitan Municipality** **Allegations of legislative and governance failures**

Following a complaint that the City has failed to observe its legislative and governance obligations, the MEC wrote a letter to the Executive Mayor of the City of Johannesburg to furnish comprehensive written representations as to why the MEC should not invoke his powers under section 106(1)(b) of the Local Government: Municipal Systems Act No. 32 of 2000, as amended, to investigate the said allegations.

The Executive Mayor duly responded. After carefully considering the Executive Mayor's representations, which appears to rebut the claims of impropriety levelled against the Municipality, the MEC deem it appropriate to afford the complainant an opportunity to make a rebuttal response in relation to the response by the Executive Mayor. The complainant has responded to the MEC's request and said response is under consideration on whether or not it is now prudent to launched a full-scale investigation in the City. A decision in this regard will be pronounced in due course.

### **Mogale City Local Municipality** **Allegations of corruption in the allocation of RDP houses**

The Minister of Co-operative Governance and Traditional Affairs, Dr Nkosazana Dlamini Zuma, upon receipt of complaint from the Public Service Commission, referred allegations of irregularities pertaining to the allocation of RDP houses and more specifically, allegations of corruption levelled against a Councillor in respect of the allocation of RDP houses to the MEC. The Honourable Minister requested the MEC to investigate the said allegations. The MEC deemed it appropriate that before exercising his investigatory powers in terms of section 106(1)(b) of the Systems Act, to afford both the Municipality and the Councillor in question an opportunity, to provide him with a comprehensive response to the allegations levelled against the Municipality. The Municipality and the Councillor has now responded and that responses is under consideration to make a determination on whether or not MEC should discharge his statutory powers in terms of section 106(1)(b) of the Systems Act.

### **Midvaal Local Municipality** **Request for removal of a councillor**

The Municipal Council of Midvaal has requested the MEC to remove a Councillor from office, after a finding by the Council's ethics committee that the Councillor in question has breached the Code of Conduct for Councillors as embedded in Schedule 1 to the Systems Act. This request was received recently and the MEC is duly applying his mind to the matter and once a decision is taken on the matter, a pronouncement will follow accordingly.

## **APPOINTMENT OF DELOITTE CONSULTING TO CONDUCT A FRAUD DETECTION REVIEW ON THE TOP 10 CONTRACTS IN MUNICIPALITIES**

During various bi-lateral meetings held between the MEC and Executive Mayors, the issue of contracts that might be irregular was pungently raised by several municipalities. A collective decision was then taken that a review of the top ten contracts for municipalities must be conducted by the Department to determine whether there were any irregularities in the awarding of contracts; whether there is proper contract management; and whether investigations should be conducted if any irregularity might be detected.

This collective decision was taken within the spirit of the principles of co-operative government and intergovernmental relations as embedded in Section 41 of the Constitution, read together with Section 154 of the Constitution, which, amongst others, places a peremptory obligation on the Provincial Government to support municipalities.

Any alleged impropriety relating to contracts is viewed in a very serious light that can compel the MEC to initiate a full-blown investigation in terms of Section 106(1)(b) of the Systems Act. However, before the MEC can authorise a Section 106(1)(b) investigation, the Department has requested the Office of the Premier to assist in carrying out the fraud detection review of the Top 10 Contracts in the municipalities. The Office of the Premier has since appointed Messrs Deloitte Consulting to conduct the review. The review will be conducted in the municipalities of the City of Tshwane, West Rand District, Merafong City and Emfuleni.

### **Conclusion**

As the Provincial Government, we view all the allegations of impropriety in a very serious light as it does not augur well for good and clean governance in the municipalities in the Province and cannot be left undisturbed. To this end, the MEC has a statutory obligation to deal with allegations in the manner as prescribed by section 106(1)(b) of the Systems Act. In fact, a failure on the part of the MEC to act accordingly, will mean that the MEC is in dereliction of his statutory obligations. It is common knowledge that the MEC has already engaged with the municipalities concerned, and following the conclusion of due processes, will act accordingly.

Contact:

Castro Ngobese

Spokesperson: MEC for Human Settlements, Urban Planning and CoGTA

Mobile: 0609977790

Email: [castro.ngobese@gauteng.gov.za](mailto:castro.ngobese@gauteng.gov.za)