



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO COUNCIL

DATE

1. **ITEM NUMBER : C 24/04/16**
2. **SUBJECT: INVESTIGATION INTO ALLEGATIONS OF BREACH OF THE CODE OF CONDUCT FOR COUNCILLORS: COUNCILLOR A ADAMS**

ONDERWERP: ONDERSOEK NA BEWEERDE VERBREKING VAN DIE GEDRAGSKODE VIR RAADSLEDE: RAADSLID A ADAMS

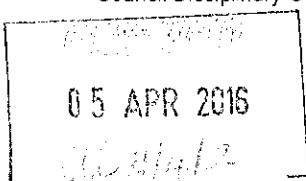
ISIHLOKO: UPHANDO OLUMALUNGA NEZITYHOLO ZOKWAPHULA UMGAQO WOKUZIPHATHA KOOCEBA: UCEBA A ADAMS

3. **STRATEGIC INTENT**

Well-run City

4. **PURPOSE**

The Council Disciplinary Committee was established in terms of Item 14(1)(b) of the Code of Conduct for Councillors (the Code), promulgated as Schedule 1 to the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), to investigate and make findings on any alleged breach of the Code and to make appropriate recommendations to Council.



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5. FOR DECISION BY

Council

6. RECOMMENDATION FROM THE COUNCIL DISCIPLINARY COMMITTEE

It is recommended that:

- (i) Council, based on the content of this report and the recommendation of the Disciplinary Committee, find Councillor A Adams guilty of breaching the Code of Conduct for Councillors as per Schedule 1 to the Local Government : Municipal Systems Act 32 of 2000.
- (ii) That Council recommend to the MEC for local government in the province that Cllr A Adams be suspended for a period of one month without salary.

AANBEVELING VAN DIE DISSIPLINêRE KOMITEE VAN DIE RAAD**Daar word aanbeveel dat:**

- (i) Die Raad, na aanleiding van hierdie verslag en die aanbeveling van die dissiplinêre komitee, raadslid A Adams skuldig bevind aan verbreking van die gedragkode vir raadslede ooreenkomstig bylae 1 tot die Plaaslike Regering: Wet op Munisipale Stelsels, no. 32 van 2000.
- (ii) Die Raad by die LUR vir plaaslike regering in die provinsie aanbeveel dat rdl. A Adams vir 'n tydperk van een maand sonder salaris geskors word.

ISINDULULO ESIPHUMA KWIKOMITI YEBHUNGA ENGEZOLULEKO**Kundululwe ukuba:**

- (i) IBhunga, ngokubhekiselele kokuqulathwe kule ngxelo nesindululo seKomiti engezoLuleko, lifumanisa uCeba A Adams enetyala lokophula

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uMgaqo wokuziPhatha kooCeba ngokweShedyuli 1 yoMthetho kaRhulumente woMmandla ojongene neeNkqubo zikaMasipala, uMthetho 32 ka-2000.

- (ii) IBhunga malenze isindululo ku-MEC woburhulumente bommandla kwiphondo ukuba uCeba A Adams makarhoxiswe esikhundleni sakhe isithuba senyanga enye(1) engafumani mvuzo.

7. DISCUSSION

7.1 Background

The Office of the Speaker received a complaint from the South African Jewish Board of Deputies regarding a breach of Item 2(b) of the Code of Conduct of Councillors. More specifically the charges related to a Facebook message/posting, made by Councillor A Adams, i.e. "to hell with worrying about not being anti-semitic [sic], this evil virus must be eliminated as it cannot be reformed, Zionists [sic] is a virus." The Facebook posting appeared to have been made on 19 August 2014.

7.2 Procedural Fairness

A comprehensive disciplinary hearing was conducted over several days, arguments were heard and the Committee communicated their finding to said councillor. Thereafter the arguments related to sanction were heard and the sanction was finally communicated to Cllr A Adams via email on the 11th of February 2016, by the Chairperson. The Disciplinary Committee found that the appropriate sanction to be recommended to Council is that the MEC for local government in the province be requested to suspend him for a period of one month without salary.

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7.3 Substantive Fairness

7.3.1. Guilt/Innocence

During evidence Cllr A Adams testified that he did not deny the fact that he had posted the comment referred to above, on Facebook. Councillor Adams pleaded not guilty to the charge. Councillor Adams testified that the term Zionist was used as a result of a spelling mistake and he does not hate Zionists, he hates the ideology of Zionism. It was also clear from testimony that, Councillor Adams had issued an apology in his letter dated August 2014.

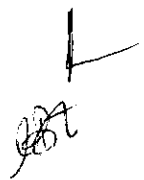
The City called one witness, Mr Daniel Levit, who is the Executive Director of the Cape Council for the South African Jewish Board of Deputies ("SAJBD"); responsible for ensuring that the civil and human rights of the Jewish community are upheld.

Mr Levitt testified that the comment made by Councillor Adams was very disturbing because the perceived threat was made by a Councillor. He testified that a Councillor should have known better than to make such comments against members of the Cape Town community. Mr Levit testified that terms like "virus" and "eliminated" can incite hatred and violence against those who support Israel.

Mr Levitt also testified that it is clear that the post was specifically aimed at Jewish individuals as Zionists. He testified that any person who reads this post will see this as creating a sense of hatred.

The majority of the Committee accepted that on a balance of probabilities Councillor A Adams was guilty of the allegation against him. Amongst others, the basis for their reasoning was as follows:

- The Committee debated if the word Zionism was used instead of Zionist whether it would still be hurtful or cause harm.
- The majority of committee felt it makes no difference because of the reference to "a virus that must be eliminated".



- To eliminate can mean to remove or get rid of someone or something and it could have incited harm.
- The committee especially considered the fact that the witness for the initiator testified that he found the statement hurtful and that he was furthermore testifying for and on behalf of the Jewish community.

7.3.2. Sanction

When determining the appropriate sanction, the committee had regard for the actual contravention proven, the personal circumstances of the councillor and the interest of the council. The majority of the committee found that the appropriate sanction recommended to Council is that the MEC for local government in the province suspend him for a period of one month without salary.

7.4 Legal Implications

The majority recommendation is put to Council. In terms of item 13(3) of the Code of Conduct for Councillor, the Chairperson of Council must report the outcome of the investigation to the Western Cape MEC for local government, which will include Council's resolution and both the majority and minority finding.

FOR FURTHER DETAILS CONTACT:

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DIRECTORATE	Corporate Services and Compliance

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REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.

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LEGAL COMPLIANCE

NON-COMPLIANT

NAME CHARLYNNE ARENDEE

COMMENT:

TEL 021 400 1265

BT
Certified as legally compliant:

DATE 24-3-2016

Based on the contents of the report.

Alleen
Acting EXECUTIVE DIRECTOR: ^{CORPORATE SERVICES AND} COMPLIANCE AND ~~AUXILIARY SERVICES (ED: CAS)~~

SUPPORTED FOR ONWARD SUBMISSION COUNCIL

DATE 2016-04-01

NOT SUPPORTED

REFERRED BACK

COMMENT:

[Signature]
DISCIPLINARY COMMITTEE CHAIRPERSON

APPROVED I.T.O. DELEGATED AUTHORITY

DATE 5.4.2016