

FROM THE DISCIPLINARY COMMITTEE: 09 FEBRUARY 2011

---

1. ITEM NUMBER : C 40/03/11

2. SUBJECT

INVESTIGATION INTO ALLEGATIONS OF BREACH OF THE CODE OF CONDUCT FOR COUNCILLORS: COUNCILLOR F. MAXAKATHO

ONDERWERP

ONDERSOEK NA BEWEERDE VERBREKING VAN DIE GEDRAGSKODE VIR RAADSLEDE: RAADSLID F. MAXAKATHO

ISIHLOKO

UPHANDO NGOKUMALUNGA NEZITYHOLO ZOKWAPHULWA KOMGAQO WOKUZIPHATHA KOOCEBA, EZIJOLISWE KUCEBA F. MAXAKATHO

3. PURPOSE

The Disciplinary Committee has been established, in terms of item 14(1)(b) of the *Code of Conduct for Councillors*, promulgated as Schedule 1 to the *Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)*, to investigate and make a finding on any alleged breach of the *Code* and to make appropriate recommendations to Council. This is a report from the Disciplinary Committee to Council, to note that Cllr F. Maxakatho has been found guilty of contraventions of the *Code of Conduct for Councillors* and making recommendations to Council, in terms of item 14(1)(b)(ii) of the *Code of Conduct for Councillors*, with regard to sanctions to be imposed. The outcome of the matter is reported to Council, as a statutory requirement, in terms of item 13(1)(c) of the said *Code*.

4. FOR DECISION BY

The Disciplinary Committee has been delegated by Council to receive reports of alleged transgressions from the Speaker in terms of item 14(1)(b) of the *Code of Conduct for Councillors* and to investigate and make findings on any alleged



breach of the *Code*; and to make appropriate recommendations to Council on a suitable penalty.

---

## 5. EXECUTIVE SUMMARY

This report deals with the outcome of the disciplinary hearing into alleged contraventions of the Code of Conduct for Councillors by Cllr F. Maxakatho. This is a report from the Disciplinary Committee to Council for Council to note that Cllr F. Maxakatho has been found guilty. The Disciplinary Committee found Councillor Fundile Maxakato guilty of contravening items 2(b), 6(1), and 11 of the Code of Conduct for Councillors in that someone under his control issued a letter giving permission to Emmanuel Forsen to temporary occupy an open space. Councillor Fundile Maxakato was also found guilty of contravening items 2(b), 6(1), and 11 of the Code of Conduct for Councillors in that someone under his control issued a letter giving permission to GENERAL FAITH ASSEMBLY CHURCH IN ZION to temporary occupy an open space. On the third count, the Disciplinary Committee found Councillor Fundile Maxakato guilty of contravening items 2(a), 2(b), 6(1), and 11 of the Code of Conduct for Councillors in that he and / or someone under his control authorised that organisations and / or groups can use the Chris Hani Hall at or near Zola Crescent in Mfuleni without paying the City of Cape Town for such use or not paying the correct tariff. The outcome of the matter is reported to Council, as a statutory requirement, in terms of item 13(1)(c) of the said *Code*.

---

## 6. RECOMMENDATIONS

It is recommended that:

- (a) Council note that Cllr F. Maxakatho was found guilty of charge 1, being contravention of items 2(b) to (f) of the Code of Conduct for Councillors which provides that a councillor must at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised and in terms of item 14(2)(d) of the Code of Conduct for Councillors the sanction for charge 1 is as follows: A fine of R2500.00.
- (b) Council note that Cllr F. Maxakatho was found guilty of charge 2, being contravention of items 2(a) to (f) of the Code of Conduct for Councillors which provides that a councillor must at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised and in terms of item 14(2)(d) of the Code of Conduct for Councillors the sanction for charge 2 is as follows: A fine of R2500.00.
- (c) Council note that Cllr F. Maxakatho was found guilty of charge 3, being contravention of items 2(b) to (f) of the Code of Conduct for Councillors which



provides that a councillor must at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised and in terms of item 14(2)(d) of the Code of Conduct for Councillors the sanction for charges 3 is as follows: A fine of R1500.00.

- (d) Council note that, in addition to the sanctions imposed in paragraphs 1-3 above, Cllr F. Maxakatho was warned not to allow anyone to use his commissioner of oath stamp or letterhead and to familiarize himself with the Code of Conduct for Councillors.

### AANBEVELINGS

Daar word aanbeveel dat:

- (a) Dat die Raad kennis neem dat rdsi F. Maxakatho skuldig bevind is op aanklag 1, synde oortredings van item 2(b) tot (f) van die gedragskode vir raadslede waarvolgens 'n raadslid te alle tye in die munisipaliteit se beste belang moet optree en op so 'n wyse dat die geloofwaardigheid en integriteit van die munisipaliteit nie in gedrang kom nie, en dat die sanksie vir aanklag 1 ingevolge item 14(2)(d) van die gedragskode vir raadslede soos volg is: 'n boete van R2500.
- (b) Dat die Raad kennis neem dat rdsi F. Maxakatho skuldig bevind is op aanklag 2, synde oortredings van item 2(a) tot (f) van die gedragskode vir raadslede waarvolgens 'n raadslid te alle tye in die munisipaliteit se beste belang moet optree en op so 'n wyse dat die geloofwaardigheid en integriteit van die munisipaliteit nie in gedrang kom nie, en dat die sanksie vir aanklag 2 ingevolge item 14(2)(d) van die gedragskode vir raadslede soos volg is: 'n boete van R2500.
- (c) Dat die Raad kennis neem dat rdsi F. Maxakatho skuldig bevind is op aanklag 3, synde oortredings van item 2(b) tot (f) van die gedragskode vir raadslede waarvolgens 'n raadslid te alle tye in die munisipaliteit se beste belang moet optree en op so 'n wyse dat die geloofwaardigheid en integriteit van die munisipaliteit nie in gedrang kom nie, en dat die sanksie vir aanklag 3 ingevolge item 14(2)(d) van die gedragskode vir raadslede soos volg is: 'n boete van R1500.
- (d) Die Raad kennis neem dat, bykomend tot die sanksies opgelê in paragraaf 1 tot 3 hierbo, rdsi F. Maxakatho gewaarsku is om niemand toe te laat om sy stempel van kommissaris van ede of briefhoof te gebruik nie en om homself met die gedragskode vir raadslede te familiariseer.

**IZINDULULO**

Kundululwa ukuba:

- (a) IBhunga maliqwalasele ukuba uCeba F. Maxakatho ufunyaniswe enetyala kwisityholo soku-1, nesikukophula imiqathango yemibandela 2(b) ukuya ku-(f) yeMigaqo yokuZiphatha kooCeba emisela ukuba uceba ngalo lonke ixesha kufuneka asebenzele ukufezekisa iimfuno zikamasipala yaye asebenze ngendlela yokuba isidima nokusebenza ngemfezeko komasipala kungasingelwa phantsi nangokungqinelana nombandela 14(2)(d) weMigaqo yokuZiphatha kooCeba yaye isohlwayo sesityholo soku-1 simi ngolu hlobo: Umdlwiwo ofikelela kuma-R2500.00.
- (b) IBhunga maliqwalasele ukuba uCeba F. Maxakatho ufunyaniswe enetyala kwisityholo se-2, nesikukophula imiqathango yemibandela 2(a) ukuya ku-(f) yeMigaqo yokuZiphatha kooCeba nemisela ukuba uceba ngalo lonke ixesha kufuneka asebenzele ukufezekisa iimfuno zikamasipala yaye asebenze ngendlela yokuba isidima nokusebenza ngemfezeko komasipala kungasingelwa phantsi nangokungqinelana nombandela 14(2)(d) weMigaqo yokuZiphatha kooCeba yaye isohlwayo se-2 simi ngolu hlobo: Umdlwiwo ofikelela kuma-R2500.00.
- (c) IBhunga maliqwalasele ukuba uCeba F. Maxakatho ufunyaniswe enetyala kwisityholo se-3, nesikukophula imiqathango yemibandela 2(b) ukuya ku-(f) yeMigaqo yokuZiphatha kooCeba nemisela ukuba uceba ngalo lonke ixesha kufuneka asebenzele ukufezekisa iimfuno zikamasipala yaye asebenze ngendlela yokuba isidima nokusebenza ngemfezeko komasipala kungasingelwa phantsi nangokungqinelana nombandela 14(2)(d) weMigaqo yokuZiphatha kooCeba yaye isohlwayo se-3 simi ngolu hlobo: Umdlwiwo ofikelela kuma-R1500.00.
- (d) IBhunga maliqwalasele ukuba, ngaphezu kwezohlwayo ezibekiweyo kwimihlathi 1-3 ngasentla, uCeba F. Maxakatho wayelunyukisiwe ukuba angavumeli nabani na ukuba asebenzise isitampuu sakhe sesigunyaziso sokufungisa okanye uphawu lwentloko yeleta yakhe kunye nokuziqhelanisa noMgaqo wokuZiphatha kooCeba.

**7. DISCUSSION/CONTENTS****7.1. Environmental implications**

Does your report have any environmental implications:

No

Yes

**7.2. Legal Implications**

In terms of item 13(3) of the *Code of Conduct for Councillors* the Chairperson of Council (the Speaker) must report the outcome of the investigation to the Western Cape MEC for local government. In terms of item 14(6) of the *Code of Conduct for Councillors* the MEC may remove the Councillor from office, if he is of the opinion a provision of the *Code* has been breached, and that such contravention warrants a removal from office.

**7.3. Staff Implications**

Does your report impact on staff resources or result in any additional staffing resources being required?

No

Yes

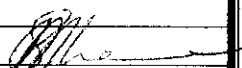

**7.4. Risk Implications**

Does this report and/or its recommendations expose the City to any risk? (i.e. does it have any adverse influence on service delivery?)

No

Yes

**FOR FURTHER DETAILS CONTACT:**

|                               |  |
|-------------------------------|--|
| <b>NAME</b>                   | Simphiwe Mbabane   |
| <b>CONTACT NUMBERS</b>        | 021 400 3200   |
| <b>E-MAIL ADDRESS</b>         | Simphiwe.mbabane@capetown.gov.za   |
| <b>DIRECTORATE</b>            | Corporate Services   |
| <b>SIGNATURE</b> :            | <br> |
| <b>CHAIRPERSON</b> OF         |  |
| <b>DISCIPLINARY COMMITTEE</b> |  |

  
**LEGAL COMPLIANCE**

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

NON-COMPLIANT

432

NAME JEAN ROMAN  
TEL (021) 400 2753  
DATE 22/03/2011

Comment:

**Certified as legally compliant:**  
**Based on the contents of the report.**

