



CITY OF JOHANNESBURG
METROPOLITAN MUNICIPALITY
OFFICE OF THE SPEAKER

MINUTES OF THE 14th EXTRA-ORDINARY COUNCIL MEETING OF THE CITY OF JOHANNESBURG MUNICIPALITY HELD ON WEDNESDAY, 22 FEBRUARY 2023, AT 10:00, AT THE CONSTANCE CONNY BAPELA COUNCIL CHAMBER, METROPOLITAN CENTRE, BRAAMFONTEIN.

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- 2 APPLICATIONS FOR A LEAVE OF ABSENCE**
- 3 RECOMMENDATIONS TO COUNCIL**
- 4 ELECTIONS OF THE CHAIRPERSONS OF THE FOLLOWING COMMITTEES:**
 - MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)
 - FINANCE
- 5 ANNOUNCEMENTS & CLOSURE**

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MEMBERS PRESENT

The Speaker: Councillor Makhubele, T C
 The Executive Mayor: Councillor Amad, T

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Amod, C J	Hoén, J N
Arnolds, M S	Homer, C
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Bini, L	Ismail-Moosa, I
Bittkau, R	Jacobs, B
Boer, C	Jainoodeen, Z
Bolani, M G	Johnson, N
Brand, D G	Jonker, N
Buthelezi, T C	Kaldine, J
Chabalala, M D	Kgeletsane, M O
Chame, F	Khanyile, N M
Chauke, K L	Khumalo, X I
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Crichton, M	Landis, R
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Mchunu, A	Ndou, P
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Mgcina, S E	Nefdt, P W
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Mhlongo, T A	Nethamba, R
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1 OPENING

The Speaker requested Council to stand and observe a moment of silence for prayer and meditation.

The Speaker welcomed the Executive Mayor of the City of Johannesburg, Councillor Thapelo Amad; Whip of Council, Councillor Zungu; Chair of Chairs, Councillor Phillips; all political party leaders and whips, the newly appointed Members of the Mayoral Committee; Chairpersons of Section 79 committees; fellow Councillors; Acting City Manager, Mr Bryne Maduka; Acting Secretary to Council, Mr Andile Gobinca; officials

of the City of Johannesburg; residents of the City of Johannesburg; members of the media; ladies and gentlemen to the 14th Extra-Ordinary Council meeting of the City

A special welcome was extended to all guests; Member of Parliament, Ms T Mfikoe and the residents present in the gallery.

The Speaker bid the following Councillors farewell and wished them well as they have resigned from the City of Johannesburg:

Councillor A Sauls I (PA), who is now the Executive Mayor of Beaufort West.

Councillor M Novella (EFF)

Councillor S Dlanjwa (EFF)

Councillor S Stewart (DA)

The Speaker welcomed the following new Councillors.

Councillor E Makhafola (EFF)

Councillor M Tshwaku (EFF)

Councillor K Kunene (PA)

She congratulated the following Members of the Mayoral Committee, as appointed by the Executive Mayor:

<i>Councillor S Morero</i>	<i>:</i>	<i>MMC Finance</i>
<i>Councillor L Masuku</i>	<i>:</i>	<i>MMC Corporate and Shared Services also The Executive Representative</i>
<i>Councillor E Mgcina</i>	<i>:</i>	<i>MMC Development Planning</i>
<i>Councillor K Kunene</i>	<i>:</i>	<i>MMC Transport</i>
<i>Councillor ND Mnisi</i>	<i>:</i>	<i>MMC Economic Development</i>
<i>Councillor AN Leitch</i>	<i>:</i>	<i>MMC Human Settlement</i>
<i>Councillor LC Magwentshu</i>	<i>:</i>	<i>MMC Community Development</i>
<i>Councillor BJ Sekwaila</i>	<i>:</i>	<i>MMC Environment & Infrastructure Services</i>
<i>Councillor M Tshwaku</i>	<i>:</i>	<i>MMC Public Safety</i>
<i>Councillor ER Makhafola</i>	<i>:</i>	<i>MMC Health and Social Development</i>

The Speaker congratulated current and former Councillors that graduated and completed their certificates in the Local Government Leadership Program, with the National School of Governance. She added that this was a pilot program that Councillors participated in, and they all did very well. The Speaker encouraged Councillors to approach the Councillor Affairs department and apply as the applications for enrolment were now open. She read out their names as follows:

Mr D Brand

Ms S Choonara

Councillor B Echeozonjoku

Councillor S Makamo

Ms M Mapeko

Mr P Maponyane

Councillor J Mosehla

Ms A Mpesi

Ms K Ndini

Ms R Nthangeni
Ms P Phaka
Mr M Sako
Ms N Zonela
Ms S Stewart

*Councillor B Steer
Councillor N van Dyk
Ms T Khubeka
Councillor F Chame*

She thereafter addressed Council as follows:

"Councillors, kindly note that we have paid tribute to the men of the SS Mendi over the weekend. More than 600 men drowned in the icy sea over 100 years ago, on 21 February 1917. We paid tribute to them at the Avalon Cemetery.

I would also like to bring to the attention of Councillors that there is an electrical fault that is affecting our water supply, so please be aware should we run out of water, there are executive toilets and mobile toilets that have been provided for outside use. The Protocol will assist you should we run out of water. Joburg Water has been working on it since yesterday and today we trust that it will not impact us.

We have been reliably informed that we might be in Stage 8, we have made provisions for a generator and electricity should there be any disruption of electricity and please be aware that provisions have been made. We will just need to give a couple of minutes for the power to be restored.

Councillors, I would like you to also note that there is a Joburg Ladies Open that is happening on 28 February 2023, all interested ladies, please kindly talk to my Office. The department has all the tickets that are available to accommodate Councillors and the clinic is open for yourselves should you wish to be part of the clinic."

The Speaker in her address said she had received a request to elevate the In-Committee Items from the Legislature, Items 23 and 24 and Items from the Executive and she acceded to the request. She added that the In-Committee Items will be dealt with after Council has dealt with Items 1 and 2.

She further asked Councillors to take note that there is an ongoing Ward Committee Workshop and sessions started last weekend. She asked Councillors to encourage Ward Committee members to attend those workshops in their area and said that training was very important. She added that her Office had received a couple of complaints and issues around Ward Committees and those were the workshops that intend to address those issues and create a good working relationship in the Ward Committees and amongst its members.

The Speaker said that they were still in the month of love, hence she was wearing red but she was disappointed that all men and women who loved her in the last Council meeting did not send flowers and chocolate and she was still open to receive them".

Councillor Meyers T (DA) sought clarity and asked if the In-Committee meeting will be dealing with Items 20-24. He further asked the Speaker to clarify why Item 23: "THE DEVELOPMENT OF THE REGISTER OF FINANCIAL INTERESTS OF COUNCILLORS FOR THE 2021/2022 FINANCIAL YEAR", will be tabled In-Committee.

The Speaker in her response said that Items 20 - 24 were In-Committee reports, she added that as per Legal, all Ethics & Disciplinary Committee reports were dealt with In-Committee.

Councillor Coutriers (ActionSA) thanked the Speaker on behalf of ActionSA, for considering their request to include all the cleaning staff to be catered during Council meetings.

The Speaker thanked Councillor Coutriers for bringing the matter to her attention.

Councillor Ndou (ANC) requested the Speaker to allow a moment of silence for the passing of Kiernan Jarryd Forbes, known professionally as AKA.

The Speaker asked Council to rise and observe a moment of silence because the City had lost a Director, in the Department of Health and Social Development in Region G, Freedom Park; AKA (Kiernan Forbes) and Tebello Motsoane who were killed together; Mr Ayob Mungalee, an anti-gang activist that was shot down in Eldorado Park; and all the victims of floods across the country.

The Speaker requested Legal Advisors to confirm the number of Councillors present to confirm the quorum. She announced that there were 258 Councillors present in the meeting, therefore, the meeting quorate. She urged Councillors that did not sign the register to continue to sign.

Councillor Christians A (DA) asked why Item 23 was going to be debated In-Committee. He added that such a report was never dealt with In-Committee, whilst the report emanates from the Ethics & Disciplinary Committee, the report itself was not of an ethical issue.

The Speaker in her response asked Councillor Christians to familiarize himself with the Terms of Reference for the Ethics Committee, and the Integrity Commissioner, together with Chapter 11 of the Rules of Council and that Councillor Christians will understand why the report be dealt with in the In-Committee.

2 APPLICATIONS FOR LEAVE OF ABSENCE

The following applications for leave of absence from this meeting were granted:

<i>Councillor de Lange F</i>	<i>:</i>	<i>Private business</i>
<i>Councillor Pelzer R</i>	<i>:</i>	<i>Ill Health</i>
<i>Councillor Roberts FC</i>	<i>:</i>	<i>Private Business</i>
<i>Councillor van der Merwe M</i>	<i>:</i>	<i>Private Business</i>
<i>Councillor Truluck TF</i>	<i>:</i>	<i>Private Business</i>
<i>Councillor Radebe NP</i>	<i>:</i>	<i>Private Business</i>

The following Councillors requested to arrive late:

*Councillor Shumba KA
Councillor Horwitz J
Councillor Lobi M*

The following Councillors requested to leave early.

*Councillor Rahn NJ
Councillor Dellwaria N
Councillor Knott LR
Councillor Homer C*

3 RECOMMENDATIONS TO COUNCIL

The Executive Mayor tabled the reports from the Executive and said that he wanted them on record that they love the Speaker of Council and the residents of the City of Johannesburg.

MMC Masuku on behalf of the Executive indicated that a request was sent to the Office of the Speaker, requesting Item 14 to be included in the Agenda. She further said that Item 17 had extra information added on the Annexures and Item 18 was updated.

Chair of Chairs tabled reports of the Legislature.

At this point, time being 11:00, Councillor Smit PA (VF+) requested a 30-minute caucus break; the Speaker acceded to the request. Council to resume at 11:30.

Councillor Rambani (DA) addressed Council and said that the MMC had just added to the Annexures on Item 17 which might be the business plan that was not attached as the Annexure. He added that because the City had many of entities hence there will not be enough time for Councillors to study the adjustments made to the business plans and suggested that the Executive move the Item to the Council meeting that is scheduled for 23 February 2023.

The Speaker said that Councillor Rambani will receive his response after the 30-minute caucus break.

At this point, time being 11:42, Council resumed with its business

Item 1 AMENDED REPORT: TABLING OF THE DRAFT
 2021/22 CITY OF JOHANNESBURG GROUP
 ANNUAL REPORT FOR THE YEAR ENDED
 30 JUNE 2022

Councilor Christians (DA) said he wanted it on record that one of the reports that was sent out was incorrect. Therefore, sending out incorrect information to the public means the feedback that Council would receive will be incorrect.

The Speaker asked Councillor Christians to explain which report he was referring to.

Councillor Christians (DA) said he was referring to a report that contained multiple entities, one of the entities being JOSHCO. He further said that the JOSHCO report spoke of the risks and it said that there was mitigation in place but because he knew

the report, it did not speak about mitigation and the Committee had already reported to Council, and Council had agreed with the Committee that because of JOSHCO's poor showing, both financially and in terms of processes, it should be placed under administration and that was never done. He further said that the current report speaks of Council bailing JOSHCO out, hence he was saying the report going to the public was misleading because it should state that in terms of risk and liquidity, JOSHCO was not viable.

Councillor Marema (ANC) quoted and referred Councillor Christians to the MFMA, Section 122 – 133 and said after reading the Sections, Councillor Christians will realize that he will have an opportunity to engage on the matter, only after 9 months and today was not the day to speak on what Councillor Christians was speaking on.

MMC Masuku said that MMC Morero had indicated that they are happy to make corrections to the report because the report, after all, was the report of the previous administration.

NOTED

That the Draft 2021/22 Integrated Annual Report of the City of Johannesburg, Citizens Report (Abridged version) and the Annual Reports of the MES be tabled in Council in terms of Section 127(2) of the Municipal Finance Management Act.

(OFFICE OF THE CITY MANAGER)

Item 2 SHORT-TERM LOAN FUNDING IN THE 2022/23 FINANCIAL YEAR FROM DEVELOPMENT BANK OF SOUTHERN AFRICA ("DBSA")

Councillor Magwentshu (ATM) in his address said that as the African Transformation Movement, having had a clear sight of the City's bad financial state, they are convinced that the City needed money. He further said that the truth was the previous administration misled Council by concealing the true state of the City's financial position and that was the reason the loan was rejected previously because they were made to believe that the City was in a healthier financial state.

He thereafter said that the DA-led multiparty government demonstrated its inability to prioritize the people of Johannesburg by being unable to visit the most impoverished areas like Alexandra, Ivory Park, Orange Farm, Diepsloot etc. He stated that the city had no sense of strategic direction for the better part since the previous administration took over after the 2021 elections. He added that Council had seen months of nothing but sheer incompetence; the purging of Senior employees whilst hiring an underqualified, unsuitable, inexperienced, former JRA CEO, who had overstated his qualifications and experience to bag the position of the JRA CEO.

He indicated that the Government of Local Unity inherited a city that had only R4 million in the account; owing service providers R6 billion; the R2 billion loan was just a drop in the ocean if you compared it to the R6 billion. He stated that the non-payment of SMME's could no longer be allowed to continue, given its impact on service

delivery, also considering the legal implications of not honouring contractual obligation and said the loans should, therefore, be approved.

Councillor Machete (APC) addressed Council and said the loan was necessary to make the City financially stable, and as the APC agree with the short-term loan funding in 2022 and 2023 Financial Year from the Development Bank of Southern Africa DBSA 2022, provided the loan was used accordingly and with relevance.

Councillor Nkokou (PAC) concurred with the 2 previous speakers in support of the loan.

Councillor Arnolds (AIC) said that as the African Independent Congress, they would like to see the loan utilized to stabilize the City of Johannesburg. She further said that Council was taken for a ride by the multiparty government saying that there was money in the city and that the City was able to pay staff and SMMEs, but Council still wanted to go to the loan sharks and get money.

She said that they are vindicated as a government because they have seen that there was no money in the City, and she wanted to caution the current government that when they get that money; they must stabilize the City and ensure that people are paid; ensure that the City was cleaned up; ensure that everything that needed to happen, as Councillors of the City, they made it happen. She concluded that the African Independent Congress supported the loan and asked that the government use it appropriately.

Councillor Mabaso (IFP) addressed Council and said it was disheartening to see the report being tabled after two previous encounters which had this report being rejected by the majority of this Council. He reminded Council that the loan was part of the budget which was approved in May. He said the report before Council was outdated, the agreement was to be signed on or before 12 November 2022. He continued and said that the capital repayment date with interest, was still the end of June 2023, considering that the banking facility with Standard Bank was over a billion Rand, therefore, the 30 June 2023 was not a realistic settlement date.

He said that resubmitting the report to Council was a clear demonstration that the Executive Mayor concurred with the content of the report and that the Executive Mayor agreed with what the report sought to achieve, even though the Executive Mayor did not agree with the report when it was previously presented in Council.

He further said that the Executive Mayor, MMCs and Councillors should never allow political egos to take precedence over service delivery. He added that the previous resolution on the report compromised service delivery as contractors were not paid; SMMEs were not paid; labours were not paid; Securities vacated sites because they were not paid; contractors left sites unattended and some of those sites and projects were subjected to vandalism. He stated that the decision not to support the report was not thoroughly thought through. He mentioned that the IFP supports the report because it had a serious impact on service delivery.

Councillor Harris (ACDP) said that in November 2022, 139 Councillors rejected the request for the loan and the claim was that the financial position of the City was sound

and that there was no urgency for the urgent approval. He added that from the ACDP standpoint, the refusal to support the report at the time was based on nothing more than a desire to see an administration headed by a hated enemy collapse.

He indicated that the projects outlined in the service delivery and budget implementation plan and annual budget should be the last thing on the minds of these caring Councillors. He added that maintaining and improving service delivery standards never crossed the minds of those who rejected the request, the citizens of Johannesburg were furthest away from the minds of the power-hungry conductors of musical chairs. He further said in one of the greatest acts of hypocrisy and flip flopping, the same request was tabled; the funds are needed and there was urgency and a realization that the funding of an efficient administration was crucial.

He raised concerns as the ACDP that there was no payback plan attached to the request; the deadline stipulated by the MFMA was 30 June 2023. He added that the country was awash with anecdotal evidence of the ANC's capacity to siphon off and squander much needed public funds for their own use, and potentially as quid pro quo for their little franchises. He further said there was no guarantee that the funds will be used for their intended purpose; there was no evidence that professional, ethics, accountability or transparency will be exercised in dispersing these funds.

He continued to say that the ACDP had committed itself to act in the public interest at all times and in the interest of the electors that sent them to Council, the ACDP will support this request for one reason only. He added that they were morally and ethically bound to serve the residents of Johannesburg and it must be noted that this was not a vote in favour of Al Jama-ah or the ANC, they will use every means at their disposal to ensure the funds are not misappropriated and that the money will be used in service of Johannesburg. He concluded that the decision shows the maturity of the ACDP and its seriousness in its commitment to the service of God and man.

Councillor Nkosi (EFF) in his address, reminded Council that the EFF had asked the DA led coalition to do their press briefings because they told Council that there were no financial issues. He added that the DA led coalitions were warned that the rate of expenditure was much higher than revenue and it necessitated that they must put pressure on revenue collection. He said that they failed to pay the revenue collection offices that were supposed to collect the money. He stated the coalition tried to do the press briefings by going to City Power, trying to collect all the monies that they had but it was already too late.

He concurred with Councillor Mabaso that the DA led coalition failed to pay the contractors because they were failing to collect revenue. He said that the coalition had collapsed many businesses and it was not because of the loan, it was because of their bad financial practices. He stated that because the City was in financial tatters, it necessitated that Council must approve the loan. He said that it was not flip flopping, it was because of the bad financial practices that the City was in the situation, and they must accept failure. He urged the coalition to go into the press briefings that they liked and tell the public that they failed.

Councillor Gantsho (ACTIONSA) asked the Speaker if her office had received correspondence from ACTIONSA with regard to the report and further asked if her office managed to pass the correspondence on to the Executive.

The Speaker in her response said the correspondence was only received in the morning and it was still being processed by Legal and it had not been passed because she had not received advice on it yet.

Councillor Gantsho (ACTIONSA) reminded Council and recorded that it should reflect that this was not the first, the second or the third time the Item was before Council. He said that in fact, in under a year, the item had been brought to Council four times and each time, it was rejected by the majority of Council.

He said that ACTIONSA had decided that they will be a constructive opposition and will do oversight on the Executive. He further said that they will criticise what deserves criticism, commend what was praiseworthy and assist at all appropriate times because their priority was the residence of Johannesburg, and any proposal that will benefit the residents will have their support.

He stated that they had listened to the interviews conducted by the MMC of Finance and applauded his desire to stabilize the finances of the City and particular interest, towards the pronounced scaling down of the budget by 6 billion. He further pleaded that they should not find out that some new projects and tenders are in the pipeline and mentioned that what was required was ruthless pragmatism and to let go of the inclination for populism and populist rhetoric and making promises that cannot be kept.

He added that Council needed to confine itself to the legally mandated services; cleaning, repairing, maintaining and providing basic services like water, electricity and waste removal.

He mentioned that ACTIONSA would have loved to support the proposal, as they see and understand the need for the loan but there were no answers to their concerns about the proposal and if the small amendment they had requested was made, in principle because they accept the need for this capital injection. He indicated that they cannot in good conscience approve a loan without doing due diligence. He said they cannot leave it to the word of the Executive that the money will be used for the stated purposes and be paid back in time, it would be negligence on their part if they did not raise their concerns and satisfied themselves that indeed, the people and the City's interests were taken into consideration.

He thereafter said that they had raised their issues at the Ordinary meeting of the Programming Committee, held on 14 February 2023, where ACTIONSA requested the Executive, as part of the report, attach a loan repayment plan for the DBSA loan and no answer was forthcoming. He added that in their remarks; they indicated that their request was informed by that concern and unlike when the DBSA was first tabled, the previous administration had about eight months to pay off the loan, there were three or four months left now and asked how the loan will be paid back. He further said that it was important to note that for the City to comply with Section 45 of the MFMA, the short-term debt must be repaid within the financial year, which ends on 30 June 2023.

He thereafter said they noted with grave concern that the Executive seemed not to have taken up their request or advise, and further said that clause 4 of the loan

agreement, suggests the agreement had lapsed and it would be illegal for Council to approve the agreement without it being rectified or updated. He said to ensure the interests of the city and the residents are protected, they once again request the Speaker to bring this matter urgently to the attention of the Executive. He further asked about when the loan will be paid back and what informed the amount?

Councillor Schay (DA) stated that this was the fourth time an attempt had been made to table this Item in Council. He further said that the first time the Speaker blocked it, despite knowing how critical the loan was to ensure the City's finances remained stable and that service delivery continued unaffected. He further said the current MMC of Finance had little faith in his own party's ability to fix anything because he had a vision for the City which includes a JoJo tank in every home, instead of expecting his colleagues in the Provincial Legislature to ensure Rand Water gives constant water supply. He said that MMC Morero led his caucus to vote against the loan.

He thereafter said that the loan being brought back to Council by those who rejected it in the first place was not the only evidence that the Councillors on that side of the room wanted to watch the city burn. He added that the residents of Eldorado Park and Lenasia had been pleading for someone to tackle the land invasions in their areas, but their elected Ward Councillors handed the Public Safety portfolio to a party known for flouting bylaws and encouraging land invasions.

He thereafter said as our country sat in a state of disaster, from the ANC's misgovernance of Eskom over decades, what does the coalition of distraction do, they handed over the City's Environment, Infrastructure and Service delivery department to the same party that sponsors our daily load-shedding. He added fixing City Power's ailing infrastructure was now the responsibility of the same cadres who degrade it every day; the representatives on that side of the aisle would rather watch the City burn than see the residents of Joburg enjoying improved electricity supply. Furthermore, the 1% Mayor, and added when he said 1% he meant it both in the election results and in comparison, to his predecessor, had decided to throw aside former MMC Sun and former Executive Mayor, Mpho Phalatse's plans to shield Joburg from load shedding. He added the plan was crafted by and drew from the experience of the only political party that was currently mitigating load shedding where it governed in municipalities and had a workable plan in Provinces where it governed, to mitigate load-shedding. He further said the Mayor instead, asked the Gauteng Provincial Legislature to assist in this, the same people that Councillor Morero does not even trust, to keep the water pumps on during load-shedding. Why? The answer was simple because they would rather watch the City burn than see the lights kept on Joburg.

He thereafter addressed his colleagues in the Chamber and said that some of them believed that their job was all about titles, positions and access to patronage networks; but part of their roles as Councillors was to represent the views of their constituents in this Chamber. He added that he had asked the residents of Ward 22 what their viewpoints were on the loan and their answer was unequivocal, that they would not trust the Councillors on the other side of the aisle to run a school tuckshop, never mind the coffers of the City. He further added that they expressed a massive distrust of the Executive not to pull for this loan and quite frankly, due to the track record of the parties on the other side of the aisle, and the 1% Mayor's Freudian slip in his acceptance speech that he will be prioritizing fraud and corruption. He continued and said much had been said about the state of the finances of the City, by those who are dividing the spoils of the City they have already begun to sack but it was rather rich of those who intentionally sabotaged the finances of the City to then bemoan the state of them.

He further said that as much as the Executive plans to set the status as fiscus for needing this loan, maybe the public should know that the report only mentions that this loan was approved as part of the budget framework that was approved in this Council last year, or perhaps the Executives had been lying to the public through the media or the report was a fabrication but chooses to trust the report. He added that this Executive would rather see the truth burn than admit the consequences of their actions. He added that according to clause 4.1 of the DBSA loan this facility lapsed on 12 November 2022, the Executive simply does not care enough about the residents of Joburg to read through a R2 billion loan agreement before signing it on their behalf.

Councillor Schay continued with his debate and said particularly Resolutions 3 and 4 of the report fall foul of 45 (3) (b) of the MFMA, he said the item was a waste of Council's time because the Executive could not be bothered to understand the agreement and the legislation at hand. He further said perhaps the ANC caucus leader should follow the advice of his caucus member, Councillor Marema, and read the MFMA, this was in conjunction with the fact that Council simply does not have enough time to repay the loan before the end of the financial year and the fact that every Councillor in this room will be held personally liable when we do fail to pay back the loan. He thereafter said that even if this loan was legal this time, it can only do damage to the City's finances more than benefits.

Councillor Schay in his response said that he was reporting MMC Tshwaku to the Ethics & Disciplinary Committee for using the powers of his office to his benefit. He concluded and said that he wanted to apologize for the way he started his speech, he may have created an impression that he does not believe the Councillors on that side of the room cannot be bought and if he was being honest, he had complete faith that all of them can be bought, but that was beside the point. He said that the result was still that this administration cares not for the residents of Joburg and will readily watch the City burn. The DA will continue to fight for what was logical and right. He said they cannot be bought, bullied and they will only govern by reason and negotiation. The DA will always strive to see the city rise from the ashes.

Councillor Boer (VF+) in his debate said that the Executive brought to Council a loan agreement that had already expired on 12 November 2022. He added that the loan cannot be approved even if the Executive wanted to, and he wanted to applaud all Councillors and all the political parties that had a chance to approve the loan in November last year. He further added that the ANC and its colleagues decided to oppose the loan not because of the interest of the residents of the city, but because of their own political agenda, Council had a chance to approve, and it was not used.

He stated that the Freedom Front would have supported the loan because it was in the best interest of the residents of Johannesburg; service delivery and that was the reason the multiparty government asked for the loan in May last year already and brought it back again in November last year and the ANC decided they will not support it. He concluded that Council was now sitting with a problem, Council cannot approve the loan today because the agreement had already expired.

Councillor Marema (ANC) began his debate with a quote and said, "Change is painful, but nothing is as painful as staying stuck somewhere you don't belong". He said that the multi-party coalition thought running the administration was speaking badly about

the ANC. He further said that the previous administration got busy with witch hunts and the purging of black professionals.

He indicated that according to the statutes or legislation, Treasury required the city to have at least 1.3 billion for at least 30 days, but they only found 400 million in the coffers of the city. He further said that collection rates were at 80%, which was lower than 90% of what was needed to collect, they were under collecting by about R800 million. He added that the budget had to be cut by at least 6.5 billion for the City to survive and that the City currently owed suppliers about 5 billion.

He thereafter said that SMMEs that never got paid for the past three months or so; workers of contractors that had to wait for the City to pay them had a dark Christmas. He stated that instead of fixing the problem, the multiparty blamed the ANC for all their mishaps. He further said the residents could see that the City was in trouble and that was the reason most of the Councillors had to push for a motion of no confidence, in the pseudo-Western Cape government in the City of Johannesburg.

He stated that said that the item will help solve the shortfalls they have in the finances of the City and the loan was necessary to make sure that they fast-track the recovery of the City. He added that he was under no illusion that all the damage done to the City of Johannesburg will be fixed overnight but he believed that the current government would focus on service delivery and they could assure the residents of the City those fleet problems will be resolved, roads will be fixed; service delivery will go to the residence of the City of Johannesburg, instead of media briefings; Twitting; the City will now focus in giving the residents of the City of Johannesburg services they deserve. He concluded by quoting Barbara Kingsolver; "The change we dread most may contain our salvation",

MMC Morero (ANC) noted the comments and the concerns raised by Councillors. He indicated that recommendation 4 in the report suggested that the City Manager will be allowed to engage with the DBSA on any amendments required on the report. He further added that Annexure B still needed to be signed so the agreement ceased to be a draft, they will take a cue from the engagements that the City Manager will have with the DBSA so that those amendments can be effected. He further said that they will then deal with the replacement report for it to be tabled in Council.

Councillor Schay (DA) asked if the MMC of Finance was implying that there was an adjustment agreement which had not been presented to Council.

MMC Morero (ANC) in his response said that they had said the attachment was a draft and the City Manager will then enter into an agreement and sign the agreement on behalf of the City.

Councillor Schay stated that Council cannot vote for a draft report. He suggested that the MMC can withdraw the report and bring it back so that Council can finalize it but currently the report could not go through in its current form.

Councillor Ngobeni R (ActionSA) in his address said a lot had been said about the report and the key issue was the illegality of the report. He said that the MMC can withdraw the report and bring it back with the correct Annexure to the Ordinary Council meeting scheduled for Thursday, 23 February 2023, to allow Council to make a

legal resolution. He added that at this stage Council was going to adopt an illegal report which puts all Councillors in a bad light.

MMC Morero (ANC) in his response said the Executive will bring a replacement report after the In-Committee meeting. He further added the report was not necessarily incorrect except on the Annexures. He requested the report be deferred to after In-Committee meeting so they could correct the report and request Council to proceed with the loan.

At this point, time being 12:54, the Speaker acceded to MMC Morero's request and said Council can move to In-Committee, Item 2 will be concluded later in the day.

Acting Secretary to Council tabled In-Committee reports before Council meeting was moved to In-Committee

The Speaker announced Council will be going into In-Committee and requested the guests, residents in the gallery, officials, and the Media to leave the Chamber.

Councillor Rambani (DA) asked the Speaker to make a ruling on Item 17 as per his initial request that the item be withdrawn to the meeting on Thursday, 23 February 2023. He further said that the report contained an audit finding from the Auditor General that had implications for this Council.

Councillor Christians A (DA) in his address said that he had read up on Chapter 11 as well as the Terms of Reference of the Ethics & Disciplinary Committee and said that Chapter 11 of the Standing Rules and Orders of Council was silent on In-Committee reports, however, the Terms of Reference of the Ethics & Disciplinary Committee says that the Ethics & Disciplinary committee shall be held In-Committee and does not say the reports coming to Council shall be held In-Committee, unless requested so. He further asked why the Ethics & Disciplinary item, which had never been an In-Committee item was now tabled as one, he asked if Council was afraid of transparency and openness to our residents.

The Speaker responded to Councillor Rambani and said Item 17 was tabled by the Executive, she cannot withdraw their Items. She thereafter addressed Councillor Christians and said the report was In-Committee as per request.

At this point time being 13:40, In-Committee reports were distributed,

The Speaker asked Councillors to be back in Council by 16:30 and she expects Councillor to have gone through the reports there will be no caucus break while Council was In-Committee.

Councillor Schay (DA) addressed Council and said that he will be writing to the Speaker's Office with grave concern. He said that over the past meetings, they had seen a massive increase in sexist, homophobic and anti-Semitic remarks in the Chamber and it was a statement on the leadership of the Speaker.

The Speaker acknowledged Councillor Schay and said that her Office will be expecting his letter.

MMC Morero (ANC) said as agreed during Council proceeding earlier, the Executive had submitted the replacement report which covered the issues that were raised by Councillors.

The Speaker could not determine if the Councillors agreed or rejected the report, the report was put to a vote and the results are as follows:

YES: 147

NO: 95

ABSTENTION: 2

RESOLVED

- 1 That Council approves the provision of the short-term loan facility loan for an amount of R2 billion at an indicative floating interest rate of 3-month Jibar plus a margin of up to 3.04% from the Development Bank of Southern Africa "DBSA" to bridge against any short-term cashflow mismatches that may arise in the 2022/23 financial year.
- 2 That Council approves the short-term loan agreement between City of Johannesburg and the Development Bank of Southern Africa.
- 3 That the City Manager, the Group Chief Financial Officer, and the Group Head: Treasury, and Financial Strategy in consultation with the Group Head: Group Legal and Contracts be authorised to negotiate and effect changes on the debt agreement should they be required to protect the City's interest as well as execute on the final terms of the short-term loan to be provided by the DBSA.
- 4 That the City Manager be authorised to sign the final DBSA short-term loan agreement and any subsequent amendments that may occur.

(FINANCE)

- Item 3 APPROVAL OF CONTRACT BEYOND 3 YEARS IN LINE WITH SECTION 33 (S33) OF THE MUNICIPAL FINANCE MANAGEMENT ACT (MFMA) FOR THE PROVISION OF NON SPECIALISED VEHICLES ON A FULL MAINTENANCE LEASE (FML) AND FLEET SUPPORT SERVICES FOR BOTH FML AND MANAGED MAINTENANCE ON EXISTING FLEET FOR A PERIOD OF FIVE (5) YEARS FOR ALL CORE DEPARTMENTS AND MUNICIPAL OWNED ENTITIES (MOES)

DEFERRED

(GROUP CORPORATE AND SHARED SERVICES)

(Mporo Phooko)

(Tel. (011) 407-7565)

- Item 4 AFFILIATION TO SALGA BY COJ
AS AN INSTITUTION

DEFERRED

(GROUP CORPORATE AND SHARED SERVICES)
(Moogsyn Jones)
(Acting Group Head: Group Human Capital Management)

- Item 5 RECRUITMENT PROCESS AND APPOINTMENT
OF THE GROUP HEAD: GROUP GOVERNANCE

DEFERRED

(GROUP CORPORATE AND SHARED SERVICES)

- Item 6 ACTING ARRANGEMENTS FOR
SENIOR MANAGERS SECTION 56

DEFERRED

(OFFICE OF THE CITY MANAGER)
(GROUP CORPORATE AND SHARED SERVICES)
(Acting Group Head: Group Human Capital Management)
(Moogsyn Jones)
(Tel. (011) 407-6785)

- Item 7 AUTHORISATION TO SUBMIT OBJECTIONS AND
APPEALS ON BEHALF OF THE CITY OF JOHANNESBURG
FOR RESOLUTION IN TERMS, OF THE MUNICIPAL
PROPERTY RATES ACT 6 OF 2004 (MPRA)

DEFERRED

(GROUP FINANCE)
(Veli R. Hlophe)
(Deputy Director: Policy & Revenue Enhancement)

- Item 8 INTRODUCTION OF COJ: PUBLIC
ROAD BY-LAWS

DEFERRED

(TRANSPORT)
(Ian Boyd)
(Deputy Director: Compliance and Support)

(Tel. (011) 021-8718)

- Item 9 INTRODUCTION OF THE COJ:
PUBLIC TRANSPORT BY-LAWS

DEFERRED

(TRANSPORT)
(Ian Boyd)
(Deputy Director)
(Tel. (011) 021-8718)

- Item 10 REQUEST FOR APPROVAL OF THE
ROODEPOORT CBD TRANSPORT
MASTER PLAN, 2021

DEFERRED

(TRANSPORT)
(Pumza Mvinjelwa Nobuntu Ciko Duze
& Daisy Dwango)

- Item 11 RETURN ON IMPLEMENTATION OF
DECISIONS OF COUNCIL FOR THE
PERIOD DECEMBER 2021 TO AUGUST 2022

DEFERRED

(OFFICE OF THE CITY MANAGER)

- Item 12 CITY OF JOHANNESBURG MFMA IN-YEAR
FINANCIAL REPORT FOR THE PERIOD ENDED
31 AUGUST 2022

DEFERRED

(GROUP FINANCE)
(Phindile Tshezi)
(Assistant Director: Financial Analysis)
(Tel. (011)021-3350)

- Item 13 APPROVAL OF FINAL EVALUATION
OUTCOMES OF MANAGERS DIRECTLY
ACCOUNTABLE TO THE CITY MANAGER
(SECTION 57 MANAGERS) FOR THE
2020/21 FINANCIAL YEAR

DEFERRED

(OFFICE OF THE CITY MANAGER)
(Thandiwe Mkhonza)
(GSPCR)

- Item 14 COMMENCEMENT OF RECRUITMENT
AND SELECTION PROCESS FOR FIVE (5)
SENIOR MANAGER POSITIONS

(DEFERRED)

(OFFICE OF THE CITY MANAGER)
(GROUP CORPORATE AND SHARED SERVICES)
(Director: Field and Transaction)
(Moogsyn Jones)

- Item 15 ADJUSTMENT OPERATING BUDGET
FOR THE 2022/23 FINANCIAL YEAR

DEFERRED

(GROUP FINANCE)
(DIRECTOR: GROUP BUDGET AND PLANNING)
(Ntuthuzelo April)
(Tel. (011)358-3290)

- Item 16 ADJUSTMENT CAPITAL BUDGET
FOR THE 2022/23 FINANCIAL YEAR

DEFERRED

(GROUP FINANCE)
(DIRECTOR: GROUP BUDGET AND PLANNING)
(Ntuthuzelo April)
(Tel. (011)358-3290)

- Item 17 2022/23 MID-YEAR REVIEW OF THE INSTITUTIONAL SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP), DEPARTMENTAL AND MUNICIPAL ENTITIES BUSINESS PLANS

DEFERRED

(GROUP STRATEGY, POLICY CO-ORDINATION AND RELATIONS)

- Item 18 CITY POWER EXTENSION OF KELVIN PPA

DEFERRED

(CITY POWER JOHANNESBURG (SOC) LTD)
(Meyrick Ramatlo)
(Executive Manager for Energy Management)

- Item 19 OUTCOME OF THE RECRUITMENT AND SELECTION PROCESS AND REQUEST TO RE-ADVERTISE THE POSITION OF GROUP EXECUTIVE DIRECTOR: GROUP CORPORATE AND SHARED SERVICES

DEFERRED

(OFFICE OF THE CITY MANAGER)

- Item 20 REPORT ON LEGAL OPINION RE: THE SECRETARY TO COUNCIL

This item was dealt with In-Committee

RESOLVED

- 1 Authorises the City Manager to enter into a discussion with Ms Shuping:
- (1) The City may consider the prospect of appointing Ms Shuping to act in an appropriate alternative and vacant position during the remaining duration of her fixed-term contract and negotiate the issue around legal costs incurred by the parties;

And/or

- (2) Alternatively, the City may negotiate with Ms Shuping a full settlement of the outstanding contract including the issue of legal costs.
- (3) When discussions between the City Manager and Ms Shuping are concluded a report must be brought to Council to appraise Council on the outcome and for Council to note

- (4) Refer to the incurred Irregular Fruitless and Wasteful Expenditure to be investigated by MPAC for a possible recovery from implicated officials in terms of Section 2 (2) of the MFMA

(OFFICE OF THE CITY MANAGER)

Item 21 REPORT ON INVESTIGATION ON THE ALLEGED MISCONDUCT AGAINST THE GROUP HEAD LEGAL AND CONTRACTS RESULTING FROM RETROSPECTIVE CONVERSION OF EMPLOYMENT STATUS OF FIVE EMPLOYEES WHO WERE INITIALLY EMPLOYED IN THE PRIVATE OFFICE OF THE EXECUTIVE MAYOR

This item was dealt with In-Committee

RESOLVED

- 1 That Council notes the content of the outcome of the investigation report.
- 2 That Council authorises the City Manager to implement disciplinary action against the Group Head Legal and Contracts in line with the investigation report.
- 3 That Council authorises the City Manager to place the incumbent in a different position within the City during the disciplinary process.

(OFFICE OF THE CITY MANAGER)

Item 22 AUBREY MOCHELA REVIEW MATTER

This item was dealt with In-Committee.

RESOLVED

- 1 That Council rescinds the decision taken on the Council Resolution 2022-06-22/23.
- 2 That Council authorises the City Manager to instruct the attorneys to withdraw the review application and to reinstate Mr Mochela with immediate effect and negotiate the matter of legal costs.

(OFFICE OF THE CITY MANAGER)

Item 23 THE DEVELOPMENT OF THE REGISTER OF FINANCIAL INTERESTS OF COUNCILLORS FOR THE 2021/2022 FINANCIAL YEAR

This item was dealt with In-Committee.

RESOLVED

- 1 That Council takes cognisance of the events discussed in paragraph 6 above and the impact they have had on the timely compilation of the Register of Financial Interests of councillors.
- 2 That Council grants condonation for the late submission of the provisional 2021/2022 Register of Financial Interests of councillors by the Office of the Integrity Commissioner.

(COJ LEGISLATURE)
 (Dr Daniel Rampai)
 (Integrity Commissioner)
 (Tel. (011) 407-7374)

Item 24 REPORT IN TERMS OF RULE 64 (3) OF THE STANDING RULES REGARDING THE REVIEW OF EVIDENT MISLEADING DECISIONS OF THE MAYCOM THAT OBSTRUCTED THE COUNCIL FROM APPOINTING THE CITY MANAGER WITH FALSE, INVALID, CLEARED AND REJECTED VETTING CLAIMS, WHICH IS ALSO SUBMITTED TO MITIGATE A FURTHER CONCEALMENT AND TAMPERING WITH INCRIMINATING EVIDENCE

This item was dealt with In-Committee

IT IS RECOMMENDED THAT THE MUNICIPAL COUNCIL:

- 1 Notes the tabling of this report is supported by Rule 1(4) of the Standing Rules and is tabled in accordance with the obligations of the Speaker to report matters that are brought to her and the Council in terms of section 5(1)(a)(ii) of the MSA.
- 2 Consider the evidence in this report which points to improper and unlawful conduct and take the remedial actions in accordance with confirmed powers and authorities of Council which are stated in paragraphs 3.2.1 and 3.2.5 above, as follows:
 - 2.1 Refer the reported evidence on alleged improper and unlawful conduct relating to Cllr M Phalatse and Cllr L Knott to the Ethics and Disciplinary Committee for an investigation in terms of section 13 of the Code of Conduct for Councillors.
 - 2.2 Authorise an appointment of an independent investigator to investigate the reported evidence on alleged improper and unlawful conduct of Mr M

- Moriarty, Mr S Sibiyi, Dr H Labuschagne and Ms L Govender in terms of Regulation 5(3) of the Disciplinary Regulations for Senior Managers.
- 2.3 Refer to the reported evidence of the incurred irregular, fruitless and wasteful expenditure to be investigated by the MPAC for a possible recovery from implicated officials and Councillors in terms of section 32(2) of the MFMA.
- 2.4 Rescind the resolution dated 5 August 2022 to re-advertise the position of the City Manager and that Council authorize the Executive Mayor to apply corrective measures pertaining the recruitment process of the City Manager, Mr Brink as a matter of urgency.

(COJ LEGISLATURE)

At this point, time being 21:11 normal Council resumed and the acting Secretary to Council confirmed that the minutes of the In-Committee held on 26 January 2023 were confirmed and further read out the recommendations on the In-Committee reports.

Councillor Christians (DA) rose on Rule 24 of the Standing Rules and Orders of Council and said that the recommendations were quite substantive and they were not allowed the opportunity to have them in writing, and they do not agree with some recommendations and he wanted to record the DA's opposition as follows:

Item 20: they object to recommendation 2.

Item 21: they object to recommendation 3.

Item 24: they note their objection, and they say that the administrative justice was not properly adhered to. The report had fatal flaws with Annexures that were fabricated. Recommendation 2.4 was an overreach by the Office of the Speaker.

The Speaker said that it was late in the day and asked Council to deal with Item 2, and then the meeting will be adjourned. She added that the remainder of the agenda will be deferred to the Ordinary Council scheduled tomorrow, 23 February 2023.

Item 25 CHANGES IN MEMBERSHIP OF SECTION 79
COMMITTEES AND PROGRAMMING COMMITTEE.

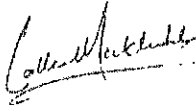
DEFERRED

(COJ LEGISLATURE)
(M Leshalabe)

4 ANNOUNCEMENTS AND CLOSURE BY THE SPEAKER

The Speaker announced that all deferred items will be dealt with in the Ordinary Council meeting scheduled for Thursday, 23 February 2023.

THE MEETING ADJOURNED AT: 21:35.



.....
SPEAKER OF COUNCIL
CLLR C MAKHUBELE

02/05/2023
.....
DATE