

**CITY OF JOHANNESBURG**

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Complete remarks by
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Weaponisation of the State against the City of Johannesburg

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Good Morning Ladies and Gentlemen,

I have called this press conference to inform the residents of Johannesburg and South Africa of a disturbing trend that represents a profound abuse of power by those in provincial and national government.

The reality is that the work we are doing in Johannesburg threatens the survival of the ANC. Their profound failures and service delivery backlogs have been exposed and are being turned around progressively.

Their elaborate network of fraud and corruption is being hunted down and laid bare for all to see. How else could it be described when 6 members of the former Mayoral Committee, including the former Executive Mayor, have been implicated in wrong doing.

The taps of money that flowed to politically connected companies and then back to their party coffers are being closed off, and this poses a real threat to the ANC.

It is no secret that the ANC, both locally and elsewhere, has attempted to collapse this multi-party government by any means possible.

The ANC in Johannesburg has made use of allied unions, temporary workers and motions of no confidence to try and collapse this administration. They used officials, appointed through their cadre deployment policy, to destabilise our government. They attempted to collapse Council meetings by walking out of Council or simply not showing up at all.

When we started insourcing 4000 security guards in Johannesburg, improving their take home salary by 50% and offering them benefits they never had before, it was the ANC who came to the defence of security tenderpreneurs and attempted to undermine this process.

Nepotism and greed were placed ahead of the insourcing of employees.

Electioneering attempts in Alex Protest

You also need look no further than what has been happening in Alexandra over the past week. Let me be clear, the people of Alexandra have many legitimate and long-standing grievances about their lived experiences. I care deeply about these conditions, and how they have been lied to for many years.

For over 2 years I have engaged former MEC Paul Mashatile and Premier Makhura about the funding that was supposed to be made available to execute the Statement of Intent and Alexandra Renewal Project. No answers have ever come out of this.

Yesterday I wrote to President Ramaphosa and requested confirmation by the end of today, that his visit tomorrow should be an inter-governmental engagement with the community and not the planned political rally it is. Local, Provincial and National Government must stand side-by-side and account to the people of Alexandra. I await his answer in this respect.

I am committed to engage the community of Alexandra on Monday 15 April 2019, to hear their concerns against the backdrop of a discussion about the City's budgets and plans.

On Friday this week, I will be engaging councillors from the respective political parties in Alexandra so that we can remove the politics from the equation and proceed to engage the community as public representatives. The South African Human Rights Commission has agreed to attend this session as observers.

I am committed to cutting through the political election campaigning on this matter and engage the ordinary residents of Alexandra to hear their grievances. Ultimately, the plans of this multi-party government will be informed by this.

Unfortunately, this is politics and it reveals the true nature of the ANC. A party that is desperate to hold onto its power and access to state resources by any means necessary.

As its efforts to collapse this administration have failed, the ANC has resorted to a far more sinister strategy.

Something I have come to describe as 'the weaponisation of the State against the City of Johannesburg.'

This term describes a systematic approach in which spheres of government, Chapter 9 Institutions and law enforcement agencies are being used and abused to wage a political war against enemies of the ruling party. In this case the multi-party government in Johannesburg.

It speaks to how these institutions have been politically captured to deliver on the objectives of the ANC, rather than acting in the best interests of the people of this city and country.

Failed attempts to destabilise City financial position

It started with ESKOM in early 2017. Within six months of coming into office, we received notice from ESKOM that it would be ending a funding agreement it had with the City of Johannesburg to the value of R300 million per year.

This funding agreement had been in place with the City of Johannesburg since 2011 and had been extended several times by Eskom. The agreement was to fund independent power production from the Kelvin Power Station to offset grid instability during load shedding.

The last agreement, signed in 2014, saw the City being paid more than R900 million over a three year period. In January 2017, we were informed that Eskom had no intention of extending this agreement with the new administration in Johannesburg. Thus, leaving our residents to foot the bill.

The South African Revenue Service under former Commissioner Tom Moyane came next. In a long-standing dispute, SARS bizarrely deemed that City Power was not an organ of state, but rather a profit-making entity. This completely ignored the fact that City Power's mandate is to provide electricity to our residents on behalf of the City as its sole shareholder.

Within a matter of months after taking office, nearly R500 million was taken from City Power by SARS. The matter is currently before the tax court and we have every confidence that we will win this case.

The Department of Energy followed soon after. It had entered into a funding agreement with the City of Johannesburg under the previous ANC government. It involved the Department committing over R600 million in funding to the City for the electrification of incomplete housing developments. Upon taking office, this arrangement ceased to exist and the Department of Energy refused to honour payments to the City for funds we spent electrifying these developments.

Abuse of power by MEC of COGTA, Uhuru Moiloa

Next came the MEC of COGTA, Uhuru Moiloa. Based on a complaint drafted by the ANC in Johannesburg, and without any objective consideration of the allegations being made by his comrades, MEC Moiloa launched a section 106(1)(b) investigation into the City of Johannesburg.

Once promulgated by the Premier, this investigation will amount to a Commission of Inquiry into the City of Johannesburg.

Empowered by the Municipal Systems Act, such an investigation is reserved for the most serious allegations of maladministration that if affirmed, would warrant the municipality in question being placed under administration by the provincial government.

No process was followed, no effort was made to engage the City of Johannesburg to determine the veracity of the allegations made by his comrades in the ANC.

The MEC simply proceeded to initiate this extreme approach.

In November 2018, the City sent the MEC a comprehensive response refuting the allegations against the City.

The MEC responded last week and advised the City that he has considered our response but did not find it satisfactory.

MEC Moiloa went on to inform the City that he is proceeding with the section 106 investigation, providing the City with no reasons whatsoever as to why he rejected our comprehensive response refuting the allegations levelled against us by the ANC.

The City's attempts to engage the MEC in good faith have been abused for purposes of box ticking.

The allegations he wishes to investigate through this commission of inquiry include the ANC's long held line that the multi-party government has been purging senior employees.

All senior officials dismissed under this administration have been implicated in serious wrongdoing and found guilty through an independent disciplinary hearing.

Yet this unsubstantiated, politically motivated allegation warrants a commission of inquiry?

As mentioned earlier, section 106 investigations are reserved for the most serious violations of governance principles that could lead to the Municipality to being placed under administration.

It is abundantly clear that the MEC is abusing his office for political gain in the run up to the elections.

This disgraceful abuse of his position is not only irrational but unlawful. It is for this reason that the City has appointed lawyers and is left with no other option but to approach the Courts to stop this abuse of power.

The City will be seeking a costs order against the MEC in his personal capacity as his political point-scoring in the build up to the elections cannot be at the expense of taxpayers and residents of Johannesburg.

It is important to note that this is the exact same strategy that the former Premier of the Western Cape, Ebrahim Rasool, employed against Helen Zille's multi-party coalition in the City of Cape Town over a decade ago. In setting aside the former premier's unlawful decision to institute the commission of inquiry, the Western Cape High Court was driven to the conclusion that the purpose of the investigation was of embarrassing political opponents.

It would appear that history is repeating itself.

It is worth noting at this point that in September 2018, Council resolved to discipline three ANC councillors for serious misconduct arising from Ethics Committee reports.

Interestingly, one of these councillors that our Council resolved to suspend is now leading the protests in Alexandra.

Another matter involved a former MMC in the City who had employed a relative without qualification and without following due process. When the former MMC later fell out with this relative, millions were wasted on legal opinions and labour proceedings to address what was essentially a fraudulently orchestrated HR process.

The Council approved resolution to terminate this councillor's appointment had to be sent to the MEC of COGTA for final determination. Nearly 7 months later the MEC of COGTA has made no such determination.

I ask you to indulge me for one moment and consider how fast that determination would have been made had it been myself or one of my MMCs referred to the MEC of COGTA?

This is the very same MEC, who doubles as the MEC of Human Settlements in the Province, who reduced our Human Settlements Development Grant (HSDG) by R180 million at the end of 2018.

No prior engagement around this decision was undertaken. No reasonable or rational basis for the decision existed.

After a long and protracted fight, including the escalation of the matter to the Presidency and threatening legal action, the Province backtracked on its decision and had to publish a special provincial gazette reallocating funding to the City of Johannesburg.

Use of the Hawks for political point scoring

The next line of attack came from the HAWKS, who are currently investigating me personally in respect of the Field Band Foundation grant that was approved by our Mayoral Committee.

This matter arose from a budget lekgotla in early 2017. Whilst receiving a presentation from our Social Development Department on the strategy to combat the scourge of drug abuse in Johannesburg, it was made clear that we needed to partner with NGOs. I shared my knowledge of the Field Band Foundation which my family and I had been involved in and donated to for years. This NGO has achieved great feats with vulnerable youths in our society.

I did this in an open platform in the presence of over 100 people from the City. I was not conflicted as I had resigned from this and every other directorship I held in January 2016, after I was selected as the mayoral candidate for the DA in Johannesburg.

The Social Development Department investigated the work of this NGO and on the strength of a proposal submitted by the NGO, the Department was suitably impressed to bring a report to the Mayoral Committee to partner with the organisation.

The Field Band Foundation is an NGO which is world renown. It is supported by various local, provincial and even national government departments here in South Africa, along with a variety of countries around the world.

They specialise in identifying vulnerable youth from disadvantaged communities and through initiatives involving the arts, provide purpose to these youth.

The funding agreement entered into by the City was for R11 million over a three year period. When the report came to the Mayoral Committee I again, in the presence of 30-40 people, spoke of my background with this organisation prior to the approval of the grant funding.

For this, the HAWKS are now investigating me for corruption.

Use of the Public Protector's Office for political point scoring

The Public Protector soon followed. The ANC laid a complaint against the City with the Public Protector using the same allegations lodged with the MEC of COGTA.

The Public Protector subsequently used this complaint to institute an investigation into the affairs of the City.

This began in mid-2018 and has involved multiple rounds of engagements where information has been sought from the City of Johannesburg.

On each occasion the City has responded with respect for the institution of the Public Protector and with volumous submissions that disprove the allegations.

In the latest round of engagements, questions have been sent to the City that demonstrate that our submissions have either been ignored or misunderstood.

The nucleus of the Public Protector's investigation forms around challenging the appointments of key figures in the City who our multi-party government has come to rely on heavily. Dr. Ndivho Lukhwareni, our City Manager; General Shadrack Sibiyi, our Head of Forensics; David Tembe, our Chief of Police; Isaac Mogashoa, our Head of Legal; and Michael Beaumont, my Chief of Staff. All of whom are key to the success of this multi-party government's efforts to deliver on our promise for change.

The investigation targets me personally, alleging that my "vendetta with Setheo Engineering arises from my involvement with a rival company" which lost out on a tender. I sold all interests in this rival company over eight years ago, long before I ever contemplated standing for office and long before this government contract was tendered for.

So, according to the line of questioning taken by the Public Protector, my issue with Setheo Engineering has nothing to do with my commitment to deal with fraud and corruption.

It has nothing to do with a company that submitted a fraudulent bank guarantee to the City or received over R88 million in payments for hardly any work done. It has nothing to do with the people of Eldorado Park not having a sub-station that was paid for and which is desperately needed to service this community.

According to this investigation my interest in this matter relates to my involvement in a company that ended over 8 years ago and which subsequently competed with Setheo Engineering for a tender in 2015. A tender which I had no knowledge of whatsoever. This is again absurd.

It is clear to us that we are heading towards a report from the Public Protector that will be taken on review. Our legal team is ready for this.

ANC undermining effective policing within the City

Another matter that I would like to see looked into, is the resignation of the former Gauteng Provincial Police Commissioner Lt General Deliwe De Lange. To this day, no real explanation has ever been provided for her sudden departure.

What I can tell you is that from day one Lt General De Lange worked with our multi-party government and was committed to a shared strategy on policing. I have it on good authority that Lt General De Lange's departure had a lot to do with her willingness to work with the City of Johannesburg.

Presidency's SIU investigation into City of Johannesburg

Now, most recently, the President has proclaimed a Special Investigations Unit (SIU) investigation into the City of Johannesburg.

Before explaining this, let me share something with you.

It is no secret that General Sibiya's unit has uncovered a staggering level of fraud and corruption in the City. I am sure we can all agree to this fact with over 4000 cases under investigation, involving more than R24 billion, with over 700 arrests effected to date.

However, what has become clear to us is that the criminal justice system has deliberately frustrated any prospect of successful criminal prosecution. Almost weekly we learn of cases that are either being dropped by the NPA or ignored by the SAPS and the HAWKS.

I wrote to President Ramaphosa in June 2018 providing him with the details of these cases and requested his leadership. To date, I have not received a reply from the President.

Fast forward to today, President Ramaphosa has announced a SIU investigation into the City of Johannesburg.

His statement sites contracts awarded by the previous government and certain matters that have already been investigated by General Sibiya resulting in criminal charges being laid. Our multi-party government has disciplined and dismissed those officials responsible and they are being civilly pursued to recoup the money. So why the need for the SIU?

The answer came the very next day in a press statement from the ANC in Johannesburg. In their statement welcoming the SIU investigation, was the following passage:

“The ANC is particularly pleased because this comes at the back of submissions made by the ANC Joburg Caucus to the SIU in early 2018.”

The SIU is not a body that can be approached to request an investigation of its own accord. Rather, the SIU is only empowered to investigate a matter following a Presidential Proclamation.

They are not like the SAPS or other law enforcement agencies. They do not take meetings or receive submissions or listen to representations by anyone until the President has proclaimed an investigation.

It is unheard of for the SIU to be engaged in this fashion prior to a Presidential Proclamation.

This confession by the ANC in Johannesburg just serves to demonstrate how they are able to coordinate and influence the activities of law enforcement agencies, Chapter 9 institutions, and even the SIU.

The City has however, advised the SIU that we will be co-operating with their investigation. The SIU has advised the City that they will be sending us a letter of engagement detailing how the investigation will proceed. The City awaits this letter of engagement.

What is of concern is that the City will need to foot the bill for this investigation if National Treasury does not exempt the City from the SIU expenses. This investigation will also be watched closely by the City to ensure that the ANC’s stated wishes do not turn this into a fishing expedition designed to distract and create instability.

I would like to remind you that the City of Johannesburg is achieving feats in the fight against fraud, corruption and wrong doing that has no equal across the local government landscape in South Africa.

Non-prosecution of cases by the NPA

As I have mentioned, our criminal justice system is failing the City of Johannesburg and its residents by delaying the prosecution of officials, politicians and tenderpreneurs who elected to steal public money.

I have written to the NPA head in Gauteng, Advocate Andrew Chauke and our new National Director of Public Prosecutions, Advocate Shamila Batohi to raise these concerns. I gave them until 29 March 2019, to provide the City with confirmation as to whether the cases provided to them will be prosecuted or not.

I received a report which demonstrated, case by case, little to no progress.

One criminal matter involves the former MMC for Housing, Dan Bovu, who allegedly sold state owned land to vulnerable people within our society. This case was provisionally withdrawn from the roll as material witnesses were no longer prepared to testify. This was immediately trumpeted by the ANC in Johannesburg through a statement proclaiming Bovu’s innocence.

We later found out that the witnesses were paid to no longer testify against Bovu and his co-accused. One witness provided the City with a sworn affidavit to this effect and it was then submitted to the

NPA. Furthermore, it was discovered that the witnesses were paid from a trust linked to Dan Bovu, the very same trust into which the alleged payments for the land were originally made.

It has been over a year since this clearly prosecutable case was withdrawn and the City is informed that investigations are ongoing.

Another case which illustrates the NPA's apparent unwillingness to prosecute serious criminality brought forward by the City was the withdrawal of the case against the directors of Setheo Engineering. The directors were arrested in 2017 after having allegedly colluded with City Power officials.

They received payments exceeding R88 million for uncompleted work in the building of Eldorado Park sub-station and the refurbishment of the Hopefield sub-station. City Power officials had colluded with the company by signing job cards which fraudulently suggested that the work had been completed.

In 2017, I personally handed the acting head of the Hawks the financial records of an estimated 28 fraudulent payments made to Setheo Engineering, as well as details of the fraudulent bank guarantee they provided to City Power.

The City spent a substantial amount of money when it appointed an external service provider to assist GFIS with the investigation. The forensic investigation report was also provided in the hope of strengthening the case, but these efforts proved fruitless.

In Council last year, I was informed by none other than the ANC's former MMC responsible for City Power, Cllr Tshidi Mfikoe, that the NPA had withdrawn the case in court that very same morning.

Cllr Mfikoe's immediate knowledge and jubilation at the withdrawal of this criminal case, coupled with the NPA's non-communication with the City of Johannesburg as the complainant in this matter, made this highly suspicious.

To date this matter has not been re-enrolled in court despite overwhelming evidence.

These are two examples of numerous City matters that have not been given their due deference by the NPA.

Currently, the NPA have committed to communicate decisions on whether they will be prosecuting a number of criminal matters provided to them by the City by 30 April 2019.

In this respect, I have made my intentions very clear. Should the NPA decline to prosecute any of these cases, I will be applying for a *nolle prosequi* certificate and thereafter pursue private prosecution.

I am taking this approach because the fight against fraud and corruption will never be won unless those implicated face their day in court.

This multi-party government will not rest until those who have looted our City are in prison.

What has become abundantly clear to us in the City of Johannesburg is that our work is posing a threat to the politically connected people in the ANC.

Conclusion

When we deliver services to previously forgotten communities, it threatens the ANC.

When Johannesburg sees the creation of 110 000 new jobs in 2018, it threatens the ANC.

When we investigate fraud and corruption, it threatens the ANC.

Their response is to weaponise the state against our multi-party government.

Have you ever heard of a municipality that is simultaneously being investigated by the SIU, the Public Protector, the HAWKS, and the MEC of COGTA?

All of which are basing their investigations on unsubstantiated allegations made by the ANC caucus in the City of Johannesburg.

I would like to use this platform, to deliver two very clear messages.

To the residents of Johannesburg, the multi-party government will not flinch in its dedication to improving service delivery, stimulating job creation and fighting against fraud and corruption.

We will not, even for a single minute, allow these efforts to destroy this multi-party government and detract from the mandate you have given us for change.

To those who wish to destroy us, I want you to listen very carefully.

I was born under the oppressive thumb of Apartheid and I thrived when the likes of PW Botha said I was not allowed to thrive. I was not afraid back then, and I will never fear criminals now.

You know where my offices are, you know where my home is. I welcome you to come and arrest me, in fact I plead with you to come and arrest me. I have come to appreciate the value of an open court of law, where the truth will prevail.

I would love the opportunity to demonstrate how you fail to deal with actual criminality while targeting this government for political ends.

I look forward to it, I just hope you are ready for the fight that will follow.

Thank you.

Cllr Herman Mashaba
Executive Mayor
City of Johannesburg

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