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GAUTENG PROVINCIAL LEGISLATURE

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

Thursday, 12 July 2012

ANNOUNCEMENTS

none

TABLINGS

none

COMMITTEE REPORTS

1. The Chairperson for Privileges & Ethics Standing Committee, Mr S Ngwenya, tabled the Committee's report on the Office of the Integrity Commissioner's report on investigations into alleged irregularities by the Member of the Executive Council for Local Government and Housing: Hon. HMZ Mmemezi, as attached:



PRIVILEGES AND ETHICS STANDING COMMITTEE

REPORT ON THE OFFICE OF THE INTEGRITY COMMISSIONER'S REPORT ON AN INVESTIGATION INTO ALLEGED IRREGULARITIES BY THE MEC OF HOUSING AND LOCAL GOVERNMENT: HON. HUMPHERY MMEMEZI

12 JULY 2012

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ACRONYMS/ABBREVIATIONS

COCE

Code of Conduct and Ethics

GPL

Gauteng Provincial Legislature

IC

Integrity Commissioner

MEC

Member of the Executive Council

MPL

Member of the Provincial Legislature

The Chairperson of the Privileges and Ethics Standing Committee, Honourable S. Ngwenya, tables the Committee's Report on the Investigation into Alleged Irregularities by the Member of the Executive Council (MEC) for Local Government and Housing, Hon. H. M. Z. Mmemezi, as follows:

1. INTRODUCTION

This report is in terms of Rule 281 of the Standing Rules of the Gauteng Provincial Legislature (GPL), Version 5, Revision 1. The report outlines the process of the Standing Committee in considering the Integrity Commissioner (IC), Dr. R. Mgijima's investigation in terms of Rule 293 read together with Article 12 (4)a of the Code of Conduct and Ethics(COCE) for Members of the GPL.

MEC H.M.Z. Mmemezi on his own accord, compiled a report for the Integrity Commissioner (IC) explaining the events pertaining to the car accident and the usage of his official credit card. The MEC telephonically notified the Integrity Commissioner (IC) of his intentions to refer the matter on the 23rd of May 2012 and followed this up by a written intention to submit a report in a letter received on the 25th of May 2012. The actual report was received during the evening of the 31st of May 2012.

In a letter dated the 31st May 2012, Honourable F. P. Nel, Member of the Gauteng Provincial Legislature also submitted a request for these matters to be investigated and posed additional questions.

The investigation pertains to the alleged irregular conduct on the part of the MEC. The allegations have been widely reported in the media and have also been the subject of oral questions during the sitting of the House. The allegations specifically relate to an accident involving an official vehicle driven by the MEC and the usage of his official credit card.

On the 29th of May 2012, two Oral Questions for replies (i.t.o Rule 138) were posed by Hon. F.P Nel to the MEC during an official sitting of the GPL.

The questions were as follows:

With regard to the GDLGH's vehicle, BMW X5 registration number XDF 805 GP, could the MEC please indicate:

- (i) Who was driving the vehicle at the time of the accident on 11 November 2011;
- (ii) what is the Accident Report number issued for this accident after reporting it to the SAPS;
- (iii) why has the insurance refused to pay the claim for this accident;
- (iv) how much is the assessed damage to the vehicle; and
- (v) Why will this vehicle be sold by auction?

With regard to the government credit card issued to the MEC could he please indicate:

- (i) Whether the credit card was used to make a purchase from President Hyper in Krugersdorp on 16 April 2011;
- (ii) Whether the credit card was used to make purchases from Woolworths Harrison Street on 22 September 2011 and 19 January 2012;
- (iii) What were the purposes of the purchases made on 16 April 2011, 22 September 2011 and 19 January 2012 respectively;
- (iv) what were the amounts of the purchases made on 16 April 2011, 22 September 2011 and 19 January 2012 respectively; and
- (v) Whether these purchases were in line with the official guidelines for the use of an official credit card?

The MEC did not answer the questions and indicated that he had referred the matter to the IC for further investigation and a ruling was made by the Presiding Officer on the day, Hon. U.D. Moiloa and later confirmed by the Speaker, Hon. L.M. Maseko that the House should await the process of investigation to unfold.

2. PROCESS FOLLOWED

On Wednesday, 11 July 2012 the IC presented a report to the Privileges and Ethics Standing Committee on the investigation into the alleged irregularities by the MEC, subsequently the Standing Committee deliberated, noted and accepted the IC's report with its recommendations.

On Thursday, 12 July 2012 the Committee deliberated and subsequently adopted its Report on the Investigation into Alleged Irregularities by the MEC.

3. ALLEGATIONS, INVESTIGATIONS AND FINDINGS

3.1 Motor Vehicle Accident

The Committee noted that the MEC had stated that he had been the driver of his official vehicle XDF805 GP which had got involved in an accident with another vehicle(s) on the 11/11/2011 in UMzimkhulu, KwaZulu-Natal.

Initially, the MEC initially stated that he had driven the vehicle to the Eastern Cape and returned to Johannesburg with the same vehicle. A later admission by the MEC reveals that, the said motor vehicle was left in the care of a sympathetic local government Councilor in the Eastern Cape, who had sent it for repairs and had later drove it back to Gauteng about "*4 weeks after the accident*".

3.1.1 Committee Findings on the Motor Vehicle Accident:

The MEC has, at the very least, been very economic with the truth surrounding his involvement in an accident and the subsequent action which took place in KZN on his journey to the Eastern Cape.

He has misled the Legislature and the Office of the IC and may have tried to cover up the extent of damage to his official vehicle. Needless to say, this behaviour is unbecoming of a Member of the Provincial Legislature and in particular a Member of the Executive Council.

3.2 Credit Card Usage

The investigation on the usage of the credit card revealed that the MEC was a credit card holder issued through the Department by the First National Bank (FNB), whereby every month the Department serviced the card based on all the expenditure of the preceding month.

3.2.1 Committee Findings on the Credit Card Usage:

The Committee finds that the MEC's utilisation of the government issued credit card for personal use, amounted to an act of negligence. Furthermore, the IC's report demonstrated the MEC's lapse of judgment in the usage of the said credit card.

The report by the IC further noted and observed the following challenges and shortcomings posed by the Ministerial Handbook guidelines (Annexure G):

- (i) It is impossible to decide who has been allocated the sole responsibility to monitor and issue a directive on the usage of a department issued corporate card between the Accounting Officer of the department on the one hand and the Cardholder on the other hand. If a joint responsibility was envisaged, the exact roles have not been clarified in a clear directive.
- (ii) Although the options of a personal but department facilitated card as opposed to the option of a corporate card are mentioned interchangeably in the guidelines, it is clear that the former option should be preferred in order to keep state liability at a minimum.

4. COMMITTEE CONCLUSION

- 4.1. The Committee submits that the IC has executed his functions diligently in line with the Standing Rules; and the COCE for MPL's of the GPL.
- 4.2. In its view, the Committee further assert that the MEC was given sufficient and fair opportunity to present his case, in response to both the allegations in the media and questions posed in the House.

4.3. The MEC has breached the second, fifth and sixth principles of integrity, honesty and leadership listed in Part I of the Code of Conduct and Ethics (COCE) for Members. Equally, Section 4(2) and possibly 4(3) of Part II of the COCE for Members of the GPL have been infringed upon.

5. COMMITTEE RECOMMENDATIONS

The Committee recommends that the House direct the Premier to take appropriate action on the following matters:

5.1 Ministerial Handbook

5.1.1. It is recommended that the Executive Authority, the exercise of which is vested in the Premier and cabinet, reviews the Ministerial Hand Book, bearing in mind the effective and efficient use of state resources.

5.1.2. It is further recommended that, the Premier issues clear and unambiguous guidelines on the acquisition and usage of state sponsored credit cards taking into cognisance the intent and spirit of the Public Finance Management Act (PFMA).

5.2 Sanction/s

The Committee has, however, taken cognisance of the subsequent resignation from the Executive and the public apology to the people of Gauteng by Hon. Mmemezi on the 11th July 2012. Therefore, the Committee considers the loss of office to be an appropriate sanction.

6. ACKNOWLEDGEMENTS

The Committee would like to thank the Integrity Commissioner, Dr R. Mgijima for his dedication and veracity in dealing with this case.

I would like to thank the following Honourable Members for their diligence in the consideration of this report: BT Hlongwa, RS Letwaba, GJ Steyn, M Mayekiso, RE Gudlhuza, and BW Dlamini.

Furthermore, on behalf of the Committee, I would like to express our immense appreciation to the following Support Staff for their dedication during this process: Mr. R Chiloane, Acting Director Parliamentary Business; Mr. M L G Mashifane, Personal Advisor to the Deputy Speaker; Ms. J Singh, Acting Manager Proceedings Unit; Ms. N Montisi, Senior Committee Coordinator; Ms. E Sass, Committee Administrator; Mr. J Moloj, Hansard Recorder; and Mr. B Modise, Service Officer.

7. ADOPTION

After due deliberations, the Standing Committee on Privileges and Ethics adopted the report unanimously. In accordance with Rule 168, the Committee tables the report and recommendations made herein for consideration and adoption by the House.