

**MATJHABENG MUNICIPALITY**

**ANNEXURES**

**OF THE**

**RULES COMMITTEE  
MEETING**

**CONVENED FOR**

**TUESDAY, 14 AUGUST 2018**

**AT**

**09:00**

**IN THE**

**ROOM 427, 4<sup>TH</sup> FLOOR, MAIN BUILDING,  
WELKOM**



# FREE STATE

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## OFFICE OF THE Chief Whip

22 November 2017

TO : The Speaker of Matjhabeng Local Municipality  
Cc : Section 79 Committee Rules and Ethics Committee  
RE : RE: Construal of section 32

### Introduction

The EFF is pleased to issue this submission for your review, in as much as it will help you traverse easily over some of your most urgent commitments and constitutional obligations. We in this case would like to provide a very necessary construing intervention, which should consequently serve as a systematic and rational recommendation to Council, particularly about the unyielding crisis of dress code.

Given the urgency of the issue, we initially hope to express regret that we at such a routine hour have to impose an additional burden on you by sending you this long proposal.

Nonetheless, as we might all know, when assessing the constitutionality of prescribing a dress code to councillors, it is first and foremost of paramount importance to first reflect on the key purpose of our Councilors, mainly within the structure and context our broader Constitutional charter. More so as the constitutional typescripts might for spell, ours is a system that is essentially centred on the bounds of representation, perhaps best described and summarized by the catchphrases of 'ward representation and proportional representation'. As such, Councilors prime purpose is to symbolize and represent the people of South Africa and also to safeguard the principle of government by the people under the Constitution.



Moreover, in view of the abovementioned, and in consort with advancing its executive and legislative functions, Council's most central commitment should be the promotion of values of human dignity, equality, non-racialism, non-sexism, and most importantly upholding the supremacy of the Constitution. Underneath is the rule as quoted from the standing rules and others as gazetted, we like to bring to the committee's attention that as indicated below ours is not to change the rule holistically however we wish to propose an amendment to it in a form of an addition.

## **Proposal**

### **2. DRESS CODE**

#### **(1) PRINCIPLES**

- (a) Discretion in style of dress and behaviour is essential to the image and of the .....;
- (b) Councillors are expected to dress in a manner appropriate to their working environment and as bearers of public trust;
- (c) It would be expected that on occasions when councillors are meeting with customers, or external visitors from other organisations, or interviewing candidates, that they would dress in an appropriate conventional business-like manner;
- (d) Where appropriate, councillors should consult the speaker regarding any dress requirements specific to the performance of a duty of any nature.

#### **(2) APPROPRIATE ATTIRE**

- (a) For the purpose of this policy, the following categories of dress have been identified, each of which are appropriate dress under certain circumstances:
  - (i) Formal Attire – For men this would be a suit with tie. For women, dresses or suits with either formal skirts or formal

pants. Appropriate footwear includes formal type of shoes with socks/stockings.

(ii) Informal Attire – Slightly less formal than traditional formal attire. For men, this would be pants worn with/without a tie or pants worn with/out a jacket

- *This should not discard a workman's suit what is traditionally known as an overall however we wish to be specific that our overall will only be the 2 pieces suit a red jacket and pants.*

For women, this is a skirt or pants with a dressy blouse and/or sweater, or other type of top with a jacket. Footwear should be. ***We propose that this should a decent red apron which is tradionally associated with domestic workers it will be worn with a "doek" on their heads also with closed shoes.***

selected according to the type of work performed, keeping safety, comfort and professional appearance in mind. Socks/stockings are

not required for women. Sport shoes and hats are not permitted. The intent of informal attire is to ensure that personnel are dressed

appropriately to meet with the public at a moment's notice.

(iii) Casual Attire – A more casual dress, such as Khakis, Chinos, Jeans or Dockers style twill pants and any type of

collared shirt or sweater (for men) or blouse, dressy tee, or sweater and dressy capris (for women). Footwear should

be selected according to the type of work performed, keeping safety, comfort and professional appearance in mind.

Socks/stockings are not required for women. Sport shoes and hats are not permitted.

### (3) INAPPROPRIATE ATTIRE

(a) The following should be taken into consideration when defining what is regarded as inappropriate clothing for the

workplace:

(i) sport-related attire, including t-shirts/tops with slogans relating to football teams or other club crests, would not be

appropriate or could be construed as being offensive/inflammatory slogans.

(ii) pictures on t-shirts/tops containing nudity or foul language may be deemed sexually offensive, and would not be

appropriate workplace attire.

(iii) shorts (hot-pants/cut-off jeans/sports shorts are not acceptable; however tailored shorts to the knee could be

deemed acceptable).

(iv) crop tops, clothes made of see-through materials, and clothes that expose areas of the body usually covered in the

workplace may be deemed sexually offensive, and would not be appropriate.

(v) an observable and lack of underwear may be deemed sexually offensive and would not be appropriate.

(vi) any articles of clothing or jewellery which may present a Health and Safety hazard for employees who are operating

machinery, fire engines etc.

(vii) any wearing that depicts the pictures, symbols or messages of a political party would not be appropriate., we are very much cognisant of the provisions set out in section 32 of the Municipal Standard Rules and Orders. For the purpose of this dispatch let us cite a clause that we detected to be obscure and perhaps abstract. The passage captured in the main Guidelines (5)(a)(ii) of the rules and orders possess a serious contextual predicament. The section can mainly be recited as follows:

*"The following guideline should be used to determine the dress code appropriate to the work area, function or event:*



- (i) *Formal Attire or Informal Attire are appropriate and encouraged for councillors, particularly when attending council and council committees' meetings and other formal business engagements. **(It is our belief that the dress code of the EFF councilors, is in by no means possible offensive whether viewed Formal or Informal as it nothing but a symbol of association with the poor which are the working class.***
- (ii) *Councillors may use Casual Attire on Fridays and/or other selected occasions as may be determined by the relevant authority (Speaker).*
- (ii) *No political party regalia, attire or uniforms will be permitted to be worn by Councillors during council meetings and council committee meetings". **The red overalls or workman's suit of the EFF bears no emblem or logo of the political party nor the party slogan, it will have no printing of either names nor nicknames of the councilors.***

Whereas section (3)(a)(vii) which deals with Inappropriate Attire also unquestionably states:

*"Any wearing that depicts the pictures, symbols or messages of a political party would not be appropriate".*

Furthermore both the cited sections correctly deal with the issues of political regalia. Yet, the most rapid and exponential argument we wish to put forward is that our overalls and pinafores bear no explicit political party insignia or distinguishing badge on them, and therefore cannot fit the descriptions set out in (5)(a)(ii) and (3)(a)(vii) of the Standard Rules and Orders.

Correspondingly, we also wish to state that we have on a number of occasions (that pertain to case law) witnessed, particularly where freedom of expression and freedom of speech is concerned, that prescribing a particular dress code mainly limits individual freedoms, and thus essentially infringes on the most basic Constitutional precepts. In consequence and for your relevance, Section 58 (1) (a) of the Constitution highlights all the relevant provisions that pertain to freedom of speech , Section 16 of the Constitution

generally deals with freedom of expression and lastly Section 9(3) of the Constitution deals with the statutory challenges presented by unfair discrimination. .

To draw a particular considered degree of reflexion, so as to spare all our combined energies, as the EFF we want to categorically overstress that we have in the most recent past on various occasions been challenging this inexplicable constitutional mishap. A double act of such incidents was demonstrated in our cases in the South Gauteng High Court as well as in the Buffalo City Metro Council where we in both events won the right to wear overalls and pinafores in chambers, some of our requests were also befittingly granted in a couple of other Councils .

More so, just to expand on the contents of the case of EFF vs the Buffalo City Metro Council, the court held that EFF members could not be removed from chambers because of their dress code. In addition, Judge Selby Mbenenge indicated that directives from the Speaker of the council Alfred Mtsi to remove the EFF because of dress contravened key constitutional provisions.

We thus hope to caution Council from iterating the same constitutional blunder and rather interpret the relevant sections of our Rules and Orders under the presages of the broader constitutional framework.

But even as we stress these statutory facts, we also in the same strait hope to discount the malicious oddity that is advanced by the ultra 'Westphalian' domestic order we have, which is mainly occasioned by the consequent problem of a post-colonial comprador state.

It was not so long ago in history that the politics of Latin American warned us about the crisis of 'coloniality' and as long as we fail to dismantle the Western socio-cultural obstacle over our society the persistent and dominating residues of a colonial drift will sadly linger forever.

The terrible drift expressed by government in South Africa is not in any way different to what former Cuban leader Fidel Castro encountered when an arch imperialist and racist America, referred to him as the "bearded man in military fatigues". The erstwhile Leader of China and the guide for the real National Democratic Revolution of China, Chairman

Moa was also demonized for attempting to defeat the specter of a Western ethos over China, when he introduced the Great Cultural Revolution. Moreover, Gandhi was also scolded for going to round table conferences in London dressed as a 'naked fakir'. And ironically today the EFF encounters the same spiteful contempt from "a democratic government", as we are now denoted as the "red berets with their overalls".

Question is, are we all in the grasp of a terrible psychology of contradiction? It is rather cunning that government now expediently believes that it is their authority to interpret the Constitution to fit their own dogmas. The democratic state is thus obstinately failing to promote and protect what was once borne to be the cornerstone of our democracy, the Bill of Rights.

It is for such a reason that the EFF, explicitly inspired by a revolutionary vanguard posture, hopes to persuade you in this regard to understand that our preference of clothing in legislative chambers is not merely a provocative fashion choice, but a rigorous challenge to the "Eurocentric" norms and standards upheld in the entire South African political landscape.

We thus herewith, hope to detect and deal with the colonial character that dictates every facet of our political, social, economic and cultural lives. This alien condition clearly defines the abnormality of our existent anthropology as Africans.

But most importantly we hope to recommend that the existing Rules and Orders be interpreted mainly under the guise of precise constitutional demands. However, if the relevant sections still pose a pernicious dilemma, as is the situation now, we propose that they be altered to ensure that they don't infringe on the constitutional rights of EFF members.

### ***Conclusion***

And we lastly hope to exclaim one more time that the dress code of the EFF in Council is purely to identify with the working class and to also express the great scope of social diversity (which includes the working class) that is prevalent in our country, which the constitution mainly underscores. We thus would like to urge you to draw on the



constitutional requirements as you consider this proposal, as it will aid us all in circumventing a long drawn-out process of litigation.

As a small plea in this regard, we lastly hope to draw you to an all imposing Chinese adage and clarion call that we should at all times strive to "*let a thousand flowers bloom, and a thousand schools of thought to contend*".

It is again our request that the committee consider this proposal and after the necessary deliberation record to council that the rules be amended as indicated on the bold italic statements.

We shall be calling on your indulgence in this regard.

Your devoted revolutionaries

**Thomas Macingwane**

**The Economic Freedom Fighters.**