



MINUTES OF THE COUNCIL MEETING HELD ON THURSDAY, 28 JANUARY 2021

Present:

Councillors: RZP Zulu (Speaker), G Govender (Mayor), LR Makhathini (Deputy Mayor), DW Ndimande, OL Nhaca, NR Khumalo, JA Vallan, JS Phahla, TV Ntuli, V Govender, ME Ngidi, IP Dube, GJ Van Whye, GZ Mngomezulu, NJ Mpanza, H Mbatha, R Singh, SW Ntuli, ME Mathonsi, M Suleman, CD Mthembu, IT Nxumalo, M Ndlela, NR Shezi, TS Ngidi, PB Mabaso, SMR Mfeka, BI Dindi, EB Majola, SL Cele, N Qwabe, TK Gumede, T Colley, V Pillay, TP Du Toit, S Naidoo, AL Nzama, P Naidoo, MSCM Motala, N Dasrath, AM Baardman, AK Dawood, DH Mthembu, LI Mthembu, T Nkosi, MM Madlala, B Mvulana and N Zulu

Officials: M Manzini, NM Ngubane, SM Khanyile, EM Sithole, SC Viramuthu, SM Jali, P Govender, Y Pillay, A Nunkumar, M Ntanta, SS Zulu, F Mhlongo, T Yengwa, M Pitso, FR Naidoo, T Dube, and J Sewdular, ZP Mgobhozi (Secretariat)

Traditional Leaders: None

Other: None.

1. Prayer

The meeting opened with a silent prayer and chairperson welcomed all present.

2. Notice of Meeting

The notice of meeting, which had been circulated, was then taken as read and the meeting declared to be properly constituted.

3. Signing of Attendance Register

The attendance register was noted by the meeting and circulated for all present to sign.

4. Declarations of Pecuniary Interest/ Other Forms of Interest

a. Councillors:

b. Staff: None.

5. Apologies:

- a.** NJ Mdakane was on sick leave.
- b.** S Rajcoomar was on vacation leave.
- c.** S Hlongwane was on leave (FR).
- d)** M Ntanta was on vacation leave.

6. Councillor's Leave of Absence:

- a. Granted:** None
- b. Applications:**

MS Mhlongo (28/01/2021) only

JS Phahla (28/01/2021-01/03/2021)

NR Khumalo (28/01/2021)

c. Resolved:

That the leave be granted to the following councilors:

MS Mhlongo (28/01/2021)

JS Phahla (28/01/2021-01/03/2021)

NR Khumalo (28/01/2021)

7. Official Announcements:

8. Confirmation of minutes: 26 November 2020

Moved by D Govender and Seconded by SL Cele.

02 December 2020.

Moved by D Govender and Seconded by TV Ntuli.

9. Clean Administration:

10. Business of the day:

C 01

COUNCIL: 28/01/2021

TABLING OF THE DRAFT ANNUAL REPORT 2019/2020

RESOLVED

1. That Council notes and approves the draft 2019/2020 Annual Report.
2. That the Annual Report be advertised for public comments in accordance with Section 21a of the Municipal Systems Act.
3. That the MPAC begin with the Oversight process of the Annual report and PM Section to advertise all meetings as required by the legislation.

MID-YEAR BUDGET & PERFORMANCE ASSESSMENT**RESOLVED**

1. **THAT** the Mid Term Budget Assessment as required in terms of Section 72 of the MFMA be noted.
2. **THAT** acting in accordance with S72 (3) (a) the Accounting Officer hereby recommends to Council that an Adjustments Budget in terms of S28 of the MFMA is necessary.
3. **THAT** the findings and recommendations as outlined in the executive summary of this report be dealt with during the Adjustments Budget process.
4. **THAT** the Adjustments Budget referred to above be tabled to full Council by no later than 25th February 2021.
5. **THAT** the Budget and Treasury Office appreciates the support received from all Business Units during the compilation of the mid-year budget assessment report.
6. **THAT** Council notes the withdrawals from bank account, attached under 'Supporting Documents' in the report, in terms of Municipal Finance Management Act, Sec 11(4).
7. **THAT** Council notes the attached ratios in terms of Provincial Treasury Circular PT/MF 7 of 2020/21.

APPOINTMENT OF ACTING CHIEF FINANCIAL OFFICER**RESOLVED**

1. That Council accepts and approves the annual leave for the Chief Financial Officer from 1 February 2021 to 5 February 2021 (5 Days), and that further, Council appoints the Director Expenditure as the Acting CFO during this period.

2. That Council accepts and approves the annual leave for the Chief Financial Officer from 6 April 2021 to 26 April 2021 (15 Days), and that further, Council appoints the Director Budget and Compliance as the Acting CFO during this period
3. That Council approves payment of the Acting Allowance for the Director Budget and Compliance for the period of acting as per the Council policy.

C 04

COUNCIL: 28/01/2021

PROVINCIAL WARD COMMITTEE FUNCTIONALITY RESULTS FOR THE PERIOD APRIL TO JUNE 2020

RESOLVED

1. That COUNCIL notes and adopts the results of the assessment on the functionality of ward committees as conducted by Provincial Public Participation Unit.
2. That all ward councillors and ward committee secretaries must ensure that the portfolio of evidence information namely functionality reports, copies of minutes of meetings, copies of attendance registers and ward reports are submitted to the Public Participation Unit for verification prior to the one conducted by Provincial Public Participation Unit.
3. That ward councillors are to note that the required documents are to be submitted to the Public Participation Unit on or before the 15th of the third month of each quarter.
4. The Ward Councillors for the Non-Functional Wards i.e. Wards **1, 3, 6, 8, 10, 11, 12, 14, 15, 17, 19, 20, 21, 22, 23, 25, 27, 28 and 29** must submit to the Office of the Speaker a comprehensive Action Plan aimed at addressing the shortcomings of not ensuring the functionality requirements needed within 30 working days.

C 05

COUNCIL: 28/01/2021

REPLACEMENT OF INKATHA FREEDOM PARTY (IFP) COUNCILOR

RESOLVED

1. That Council notes that with effect from 14 January 2021 Cllr MM Sibisi is councilor of KwaDukuza Municipality.

C 06

COUNCIL: 28/01/2021

REPLACEMENT OF INKATHA FREEDOM PARTY (IFP) COUNCILOR TO THE ILEMBE DISTRICT COUNCIL

RESOLVED

1. That Council notes that with effect from 15 January 2021 Cllr Moosa Suleman Cassim Moosa Motala has been declared elected to the ILembe District Council.

C 07

COUNCIL: 28/01/2021

REVISED WARD COMMITTEE CRITERIA 2020 – IN RESPONSE TO COVID 19 RESTRICTIONS OF LEGISLATIVE MANDATE FOR WARD COMMITTEES

RESOLVED

1. That COUNCIL notes and adopts the report on the revised Ward Committee functionality criteria Assessment Tool.

C 08

COUNCIL: 28/01/2021

COST CONTAINMENT IN-YEAR REPORT FOR THE YEAR 2020/21 QUARTERTWO

RESOLVED

1. That Council notes the report on cost containment measures as per the Municipal Cost Containment regulations for Quarter 2, ended 31 December 2020.

C 09

COUNCIL: 28/01/2021

UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE REGISTER FOR THE PERIOD DECEMBER 2020

RESOLVED

1. That the register of unauthorized, irregular, fruitless and wasteful expenditure for the month of December 2020 be noted.
2. That council refers the unauthorized, irregular, fruitless and wasteful expenditure register to the Municipal Public Accounts Committee for investigation as required by the Municipal Finance Management Act, 26 of 2003.
3. That each responsible directorate submit reports to the Municipal Public Accounts Committee on the irregular expenditure incurred for the committee to deliberate and subsequently advise Council on how to proceed with each listed irregular, fruitless and wasteful expenditure reported.

4. That the unauthorized, irregular, fruitless and wasteful expenditure be reported to the Provincial Department of Co-operative Governance and Traditional Affairs and the Office of the Auditor General.

C 10

COUNCIL: 28/01/2021

**UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL
EXPENDITUREREREGISTER FOR THE PERIOD DECEMBER 2020**

RESOLVED

1. That council hereby certifies that the irregular expenditure of R 124 225 417.07 is irrecoverable.
2. That the UIFW of R 124 225 417.07 be written off and recorded as such on the Annual Financial Statements.

Moved by DW Ndimande and Seconded by Dawood.

C 11

COUNCIL: 28/01/2021

APPLICATION TO PURCHASE ERF 5777 LINDELANI C SECTION.

RESOLVED

1. That the application from Ms Z Mntambo to purchase Erf 5777 Lindelani be noted.
2. That Council approve the sale of Erf 5777 to Ms Z Mntambo.
3. That the purchaser undertakes the proposed rezoning at their own costs in consultation with the EDP in order to comply with all town planning processes.
4. That the applicant either demolishes the encroaching structures or regularize the encroachment by consolidating Erf 5777 to Erf 5776 at their own costs.
5. That the applicant submits relevant building plans for approval prior to any construction taking place on site.
6. That all requirements as per the KwaDukuza Land Use Management Scheme are adhered to at all times.
7. That Council, in terms of Section 14 of the Local Government Municipal Finance Management Act 56 of 2003, resolves that:
 - a. The property is not reasonably need for the provision of the minimum level of basic municipal services.
8. That prior to the implementation of Part 1 of this Resolution to dispose of the immovable properties in question, the following information be submitted to the MEC for his/her comments in terms of the provisions of the Provincial Notice No 1369,2006 dated 17 August 2006:
 - (a) The nature of the immovable property to be disposed of;
 - (b) The market related value of the said immovable property;
 - (c) The reasons for the disposal of the said immovable property; and

- (d) The anticipated cost to the municipality in disposing of the said immovable property.

AND

9. That, if necessary, in terms of Regulation 6(b) of the Municipal Asset Transfer Regulations, as promulgated in Government Gazette Notice No. 878 dated 22 August 2008, this Municipality solicits views and recommendations of the National Treasury and the Provincial Treasury on the disposal of the property in question.

C 12

COUNCIL: 28/01/2021

SMALL SCALE EMBEDDED GENERATION (SSEG) POLICY

RESOLVED

- 1 That the Council SSEG Policy, Terms and Conditions of SSEG as well as Requirements for SSEG Installation be NOTED and APPROVED.
- 2 That the Council Electricity By-Laws be amended accordingly as per the SSEG Policy.
- 3 That the current Tariff be reviewed and amended in order to ensure that SSEG Implementation does not negatively affect council revenue.
- 4 That customers with existing SSEG are given up to 30 June 2021, to submit SSEG applications as per the Council SSEG Policy.

C 13

COUNCIL: 28/01/2021

EXTENTION OF CONTRACT SCOPE TO MFMA 116 (3) FOR CONTRACT MN 107/2019 SUPPLY AND DELIVERY OF ELECTRICAL ARC FLASH AND FLAME RETARDANT PROTECTIVE CLOTHING FOR A PERIOD OF TWO (2) YEARS.

RESOLVED

- 1 That the item be deferred for further consultation and refinement.

C 14

COUNCIL: 28/01/2021

EXTENTION OF SCOPE THROUGH SECTION 116 OF THE MFMA – MN 132/2018 PANEL OF CONTRACTORS FOR THE ROAD REHABILITATION 36 MONTHS

RESOLVED

1. That council notes the item on the extension of scope of through section 116 of the MFMA for contract MN 132/2018: Panel of contractors for road rehabilitation (36 months).

2. That council notes that no objections were received from the public for the extension of scope in terms of section 116 (3) (a) and (b) of the MFMA for contract MN 132/2018 Panel of contractors for road rehabilitation (36 months).

3. That council approves the extension of scope of contract MN 132/2018 Panel of contractors for road rehabilitation (36 months) for inclusion of the following items:

NO.	ITEM	Unit
1.	Supply and lay Figure 6 kerbs	M
2.	Supply and lay Figure 12 Kerbs	M
3	Cut to spoil of unsuitable material	M3
4	Supply and process G2 material from commercial source (compacted to 95% MODASSHTO0	M3
5	Supply and process G5 material from commercial source	M3
6	Supply and lay dump rock	M3
7	Excavation for subsoil drains and storm water pipes	M3
8	Supply and lay 450 mm diameter 75D concrete pipe	M
9	Supply and lay 600 mm diameter 75D concrete pipe	M
10	Supply and lay subsoil drains (This item includes 19mm concrete stones, clean river sand and geofabric)	M
11	Construction speed humps (This item includes, saw cutting in preparation of speed hump, remove and dispose asphalt, supply and lay asphalt and painting of speed hump)	M

TERMINATION OF THE CONTRACTOR'S CONTRACT AND THE UPGRADING OF THE STATUS FOR SBN IMPLEMENTATION TRUST PROJECT MANAGERS TO BE IMPLEMENTING AGENT FOR THE STEVE BIKO PHASE TWO HOUSING PROJECT (WARDS 13, 16 AND 26)

RESOLVED

1. That Council receives and notes termination for the BANZETT/ Zikhulise Group appointed for Tender MN 38/2011 for the Construction of Steve Biko Phase 2 Low Income Housing Project.
2. That no claims will arise from parties (contractor and municipality) after the termination of contract.
3. That Council approves the upgrading of the status for SBN Implementation Trust from Project Managers to be Implementing Agents
4. That KDM Human Settlement Department will follow Section 116 (3) of the MFMA (Act No 56 of 2003).
5. That notices will be published by KDM Communication Unit on Local and Provincial Newspapers to follow the processes in terms of Section 116 (3) of the MFMA (Act No 56 of 2003) and Section 1A of the Municipal Systems Act No 32 of 2 000 calling all interested parties to comment/objections to the proposed upgrading of the status for SBN Implementation Trust from Project Managers to Implementing Agents.
6. That after the Closing Date, an item will be prepared and brought to Council informing whether there are any comments or objections received or not.

APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT NO 16 OF 2013) READ IN CONJUNCTION WITH THE KWADUKUZA SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW NO. 2002 (SEPTEMBER 2018)

RESOLVED

1. THAT it be NOTED that the Kwadukuza MPT sat on 15 December 2020 to consider the following application submitted in terms of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16

of 2013) read with the KwaDukuza Municipality Spatial Planning and Land Use Management By-Law No. 2002 (September 2018) for the proposed:

Amendment of the KwaDukuza Land Use Management Scheme by removing the “Office, General (restricted to Zimbali Development and Community” under the freely permitted uses in the Active Open Space 1 (EAOS 1) Zone and the inclusion of additional controls to the Active Open Space 1 (EAOS 1) Zone as follows:-

In respect of Portion 269 (of 325) Port Zimbali, the following is applicable:

- Office, General is a permitted use
- Office, Professional is permitted (Restricted to Estate Agency)
- Residential Uses, Maintenance Building, Parking Garage and Shop are not permitted.

2. **THAT** it be **NOTED** that in terms of Schedule 2, item 3 of the SPLUM By-law the KDM MPT at its sitting held on 15 December 2020 to consider matters related to this application resolved to approve the application and recommend the application for approval by Council.
3. **THAT** in terms of schedule 2 of the SPLUMA Bylaw, Council **APPROVE** the amendment of the KwaDukuza Land Use Management Scheme as per item 1 above.
4. **THAT** it be **NOTED** the public consultation process was in terms of Schedule 5 of the KDM SPLUM By-law was complied to. No objections were received during the public consultation process.
5. **THAT** the planners report dated 4 December 2020 be considered and **NOTED** by Council.
6. **THAT** it be **NOTED** that in terms of Chapter 4, Section 56 of the By-law, the combined Final Record of Decision will be issued to the applicant within a period of 21 days after the final decision is made by Council.
7. **THAT** it be **NOTED** that consultation of KDM internal departments was not warranted and therefore waived for this application proposal.
8. **THAT** it be **NOTED** that the applicant has been advised that certain legal documentation (resolution from board of directors of ZEMA and Mainstream Property Projects) shall be amended to reflect the correct property description and align with the application proposal. The Decision Notice and Record of Decision will be issued to the applicant once such documents have been received.
9. **THAT** the recommendations and/conditions imposed by the MPT at their sitting on 15 December 2020 be included in the final Record of Decision.
10. **THAT** council **CONSIDERS** and **APPROVES** the application with reference number SPLUMA 05/2020 BA (DP) and MPT Reference No. MPT 33/2020 as submitted in terms of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) read with the KDM Spatial Planning and

C 17

COUNCIL: 28/01/2021

**PERFORMANCE MANAGEMENT ANALYSIS REPORT FOR THE END OF Q1
2020/2021 FINANCIAL YEAR**

RESOLVED

1. That the 2020/2021 Quarter 1 Performance Management Systems Analysis Report be noted.
2. That the Quarter 2 Organizational Scorecard update as at the end of December 2020 be noted.
3. That all outstanding information be submitted by end of January 2021 for the compilation of a Performance Management Systems Q2 Analysis Report which will be submitted to the next Performance Audit Committee and thereafter Council.

C 18

COUNCIL: 28/01/2021

**REQUEST FOR POST FACTO APPROVAL FOR FINANCIAL ASSISTANCE TO
COVER COST OF THE FUNERAL OF THE LATE CLLR DR JLT SIBIYA.**

RESOLVED

1. That Council notes the report on the passing of Councilor Dr JLT Sibiya.
2. That Council grants the post facto approval for financial assistance to the total amount of R50 000-00 towards the funeral of the late Councilor Dr JLT Sibiya.

C 19

COUNCIL: 28/01/2021

**APPROVAL OF AN EXECUTIVE DIRECTOR TO SIGN ITEMS OF PORTFOLIO,
EXCO AND COUNCIL COMMITTEES**

RESOLVED

1. That Council approve Executive Director: Mr Syabonga Khanyile to sign items of Portfolio, EXCO and Council Committees.

(There being no further item for discussion the meeting terminated at 13h20)