

UGU DISTRICT MUNICIPALITY

MINUTES OF THE SPECIAL MEETING OF THE UGU DISTRICT MUNICIPAL COUNCIL HELD AT THE UGU SPORTS & LEISURE CENTRE, ON TUESDAY, 19 NOVEMBER 2024, AT 11H10.

Cllr SR Ngcobo - Speaker

IS Mqadi (Mayor), SN Caluza (Exco Member), GD Henderson (Exco Member), NA Njenga (Exco Member), D Nciki (Exco Member), JS Ngwane (Exco Member), MP Shoji, P Breedt, SV Duma, SP Fica, TT Hlophe, SE Khawula, MJ Cele-Luthuli, MA Manyoni, NO Mazubane, SEH Mngoma, TH Msabala, SP Mthethwa, N Mweshe, PZ Mzindle, N Ndadane, SA Ngcece, LMR Ngcobo, FM Ngwane, X Nkasa, B Nyuswa, J Schmidt, PC Shange, BN Shoji, MP Tenza, MV Vezi, LS Zungu and MPL Zungu

BY INVITATION:

Inkosi EZ Jali

IN ATTENDANCE:

Mr VO Mazibuko	-	Acting Municipal Manager
Ms D Rankin	-	General Manager: Economic Development and Environmental Services (EDES)
Dr T Mwelase	-	Acting General Manager: Water Services
M Gobhozi	-	Acting General Manager: Corporate Services
Mr K Audan	-	General Manager: Budget & Treasury Office
Ms F Mbili	-	Senior Manager: Corporate Strategy and Shared Services
Mr F Zama	-	Senior Manager: Communications and Customer Relations Management
Ms N Gumbi	-	Human Resources Management
Mr S Kati	-	Chief Audit Executive
Ms B Malishe	-	Committee Co-Ordinator
Ms N Surajbally	-	Administrative Officer: Secretariat Unit

• **OPENING**

The Speaker requested Cllr MP Shoji to open the meeting in prayer. Thereafter, he extended a warm welcome to all present.

C 425/11/24

NOTICE OF MEETING

The notice of the meeting was taken as read.

C 426/11/24

APPLICATIONS FOR LEAVE OF ABSENCE

It was noted that Cllr SD Mdluli (*council business*) had requested for leave of absence from the meeting.

Following which,

It was unanimously

RESOLVED:

That Cllr SD Mdluli be and is hereby **GRANTED** leave of absence from the meeting.

C 427/11/24

DECLARATION OF INTEREST

It was noted that there were none.

C 428/11/24

CONFIRMATION OF AGENDA

The Speaker took members through the confirmation of the agenda.

Thereafter, Cllr MP Shozi moved for the adoption of the Agenda and was seconded by Cllr Nyuswa.

Following which,

It was

RESOLVED:

That the agenda convening the special meeting of the Ugu District Municipal Council be and is hereby **CONFIRMED** subject to Item 6.1 being **WITHDRAWN**.

[At that stage of the proceedings, Cllr Mthethwa sought clarity on the withdrawal of Item 6.1. He pointed out that members needed to know the reasons for the withdrawal.]

Cllr LMR Ngcobo also expressed his concern regarding the withdrawal of the item.

Echoing the same sentiments, Cllr JS Ngwane expressed his disappointment of just withdrawing items from the Agenda.

The Democratic Alliance requested a three-minute (3) caucus session.

Upon their return, the Democratic Alliance advised that the Speaker could continue with the meeting.

However, it must be noted that the IFP was not happy with the continuation of the meeting.

The Mayor explained to Council that Items 6.1 and 6.2 were interrelated and once he presents Item 6.2, Council would then have a better understanding on the withdrawal of Item 6.1.]

C 429/11/24

MATTERS FOR DISCUSSION

It was noted that there were none.

[At that stage of the proceedings, Cllr Caluza moved for the meeting to move in-committee and was seconded by Cllr FM Ngwane.]

IN-COMMITTEE MATTERS

Extension of the Secondment Appointment of the Municipal Manager

It was noted that the item was withdrawn from the Agenda.

Appointment of the Municipal Manager

His Worship, the Mayor informed Council that there was a replacement report and that members should look at the report that was being handed out.

At that stage of the proceeding, Cllr JS Ngwane pointed out with concern that Council would be dealing with a report that was just handed out and that same was not mentioned under the Confirmation of the Agenda, which was not according to the Standing Rules and Orders for Council and its Committee.

Cllr Henderson raised a concern that the report in the Agenda and the one handed out was not the same.

Cllr Schmidt also stressed concern that the reports were not the same; especially the recommendation.

Cllr Mthethwa indicated that the Agenda was adopted and at that point in time, it was not mentioned that the report was going to be replaced. He emphasised that the handout should be an Addendum. He pointed out that the said practice was not fair to the political parties' caucus sessions.

At that stage of the proceedings, the Acting Municipal Manager left the meeting.

After a caucus session, the Speaker explained to Council that when the Agenda was adopted, the item was adopted; hence Council should give the Mayor an opportunity to present the item so that members would understand both Items 6.1 and 6.2.

The Mayor then presented the item.

He reminded members of the Council meeting held on 29 August 2024 at the Civic Centre, Port Shepstone whereby this item was presented and resolved on.

He reminded Council that the Interviewing Panel recommended to appoint Ms AN Dlamini to the position of Municipal Manager, which was approved.

He said that Council then resolved that the three (03) highest scoring candidates being Ms AN Dlamini, Mr M Juta and Ms T Cibane, be subjected to the Competency Assessment, which was completed and was now presented to Council, and that same was accessible in the Agenda Pack.

He indicated that according to the Competency Test, the Assessment Report reflects that Ms AN Dlamini was advanced in three (3) competencies being People Management, Program and Project Management as well as Change Management.

He said that this item was supposed to be presented at the special meeting of Council held on Friday, 18 October 2024; however, the said item was withdrawn from the Agenda given that he was still in consultation with COGTA.

Cllr Ngwane informed Council that the Inkatha Freedom Party (IFP) was not ready to discuss this matter. He then proposed that the IFP would leave the meeting.

The Mayor informed Council that he would then not present the new report; he would present the item in the Agenda Pack.

He also informed Council that from the recent visit of the Portfolio Committee from CoGTA; concerns were raised that the Municipality took too long to appoint the Municipal Manager.

The Mayor assured the Portfolio Committee on CoGTA that a special meeting of Council was going to be held soon to resolve on the matter.

He said that the special meeting was going to be held on 18 October 2024 but then Council had to deal with another urgent matter.

He indicated that he had received legal opinions on the matter, which were part of the Agenda Pack.

He said that the Legal Opinions indicated that it was unlawful to appoint Ms AN Dlamini to the position of Municipal Manager.

He explained to members that Council was recommending to the MEC for COGTA, and that the said MEC for CoGTA would take the final resolution.

He re-iterated that Council should resolve on the matter and wait for the outcome from the MEC.

Commenting, Cllr Henderson pointed out with concern, that when one looks at the whole process, the laws and regulations on how to appoint a Senior Official were not properly followed and that same was evident. He pointed out that the timeframes were not adhered to. Furthermore, he stressed that there were two legal opinions, and that Council could not ignore same. He reminded Council that just a week ago there was Councillor Training on the Code of Conduct. He indicated that as Council, members could not resolve on this item knowing fully well that the Rules and Regulations were not being adhered to. He said that the whole process that was done was completely illegal and that the Democratic Alliance (DA) opposed the recommendations.

Also commenting, Cllr Njenga pointed out that concerns have been raised with the Appointment of the Municipal Manager given that the processes were not followed in line with the Legislation and that there were two legal opinions. He pleaded with the Speaker to put the matter on hold and look for another independent legal opinion. He also urged Council to re-advertise the post.

Cllr Nyuswa stressed that the Municipality was without a Municipal Manager for two (2) years now. He pointed out that on 29 August 2024, the appointment of the candidate was approved. He indicated that the Municipal Systems Act, Sect 57(A)

deals with the appointment of the Senior Managers. He pointed out that the candidate had the relevant qualifications, relevant experience and in terms of the competency test, she was competent. He stressed that this matter could not be delayed any longer. He then moved for the acceptance of the recommendations.

Cllr Mthethwa assured Council that members did not have a problem with appointing the Municipal Manager; but it was important for the process to be done properly. He proposed that the position should be re-advertised due to the legal opinions.

Sharing the same sentiments, Cllr Ngwane pointed out that the legal opinions were clear and that it was not correct for Council to resolve on the matter whilst one knew that the processes were not properly followed and then depended on the MEC for CoGTA to take a decision. He said that the decorum of the Council should be always upheld. He requested that the position should be re-advertised.

Cllr Njenga explained to Council that one was not questioning the candidate; but as a member of Council, procedures should be done correctly.

Cllr Luthuli-Cele pointed out that the appointment of the Municipal Manager was a serious matter. She supported Cllr Nyuswa. She reminded Council that regarding the appointment of the late Dr Ntombela, the processes were delayed; hence it had an effect on the timeframe and that same was happening in most of the Municipalities. She indicated that the only process that was affected was the timeframe. She said that Council was basically recommending to the MEC for CoGTA; hence one should await the response from the MEC for CoGTA.

Due to the different proposals that the Speaker had received, it was noted that Council went into a voting session and that the results were as follows:

- 18 Councillors agreed to the recommendations (18 ANC); and
- 16 Councillors disagreed to the recommendations (DA -4, EFF 3 and IFP-9)

Following which,

RESOLVED:

- (a) That the report from His Worship, the Mayor on the Appointment of the Municipal Manager be and is hereby **CONSIDERED**.
- (b) That the recommendation of the Interviewing Panel to appoint Ms AN Dlamini to the position of Municipal Manager together with the Competency Assessment Results that have deemed her Competent for the position of the Municipal Manager be and is hereby **CONSIDERED** and **APPROVED** for onward submission to the MEC for COGTA for concurrence.
- (c) That the appointment of Ms AN Dlamini to the position of the Municipal Manager at a minimum annual total remuneration package of the Municipal Managers in a Category 06 Municipality be and is hereby **APPROVED**.

- (d) That the appointment of Ms AN Dlamini to the position of the Municipal Manager be effective from 01 December 2024.

C 432/11/24

Declaration for the Position of the General Manager: Water Services

The Speaker took members through the item.

Thereafter, Cllr Henderson moved for the acceptance of the recommendations and was seconded by Cllr Manyoni.

Following which,

It was

RESOLVED:

- (a) That the report on the Declaration for the Position of the General Manager: Water Services be and is hereby **CONSIDERED**.
- (b) That the Interviewing Panel be and is hereby **APPROVED** as follows:
- The Municipal Manager (Chairperson)
 - The Mayor: Ugu District Municipality; and
 - One Person that is not a Councillor or Staff Member of the Municipality and has expertise or experience in the area of the advertised post.

[At that stage of the proceedings, Cllr Fica moved for the meeting to move out of Committee and was seconded by Cllr LMR Ngcobo.]

C 433/11/24

CLOSURE

The Speaker thanked all members for their participation and contribution in the meeting.

There being no further items for discussion, the Speaker declared the meeting closed at 13h13.

CHAIRPERSON: ----- **DATE:** -----