

**MINUTES OF THE THIRD MEETING OF MAPHUMULO MUNICIPAL COUNCIL
HELD ON 20 SEPTEMBER 2016 AT 10:30 AT THE MUNICIPAL COUNCIL
CHAMBER**

PRESENT Councillors: CS Shange (Speaker), ZF Khuzwayo-Dlamini (Mayor), CZ Ncalane (Deputy Mayor), NP Nxumalo (EXCO Member), NB Hlongwa, JM Khathi, MH Khoza, DB Luthuli, TP Mchunu, ZG Mthembu, FM Ncalane, HN Ngcobo, ML Ngidi, KP Ninela, ZW Ninela, JN Ntuli, NS Ntuli, MF Nzuza, SMZ Nzuza, N Sithole KM Xhakaza and TJ Zungu

PRAYER TJ Zungu

LEAVE OF ABSENCE None

**ABSENT WITHOUT
LEAVE OF ABSENCE** None

AMAKHOSI **Inkosi:** NA Bhengu, SA Hlongwa and JM Ntuli

OFFICIALS HN Maphumulo (Acting Municipal Manager), WD Mbongwa (Executive Manager Community Services and LED/Planning), SA Thwala (Executive Technical Services), V Dube (Acting CFO), TS Sithole (Manager Risk and Compliance), GS Majola (Manager Finance), M Gumede (Manager Properties), CS Zulu (Manager Performance Management System), ND Hlongwa (Acting Manager Human Resource), LN Ntombela (Committee Officer) and TS Dlamini (Ass Committee Officer)

NOTICE CONVENING THE MEETING

The Acting Municipal Manager read the notice convening the meeting

OPENING AND WELCOME

The Speaker greeted and welcomed everyone present and declared the meeting open.

NOTICE CONVENING THE MEETING

The Acting Municipal Manager Mr HN Maphumulo read the notice convening the meeting.

APPLICATION FOR LEAVE OF ABSENCE

No Councillor's were reported absent. However the following Councillor's were reported to arrive late at the meeting

Cllr JM Khathi
Cllr N Sithole

ANNOUNCEMENTS BY CHAIRPERSON

- None
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ANNOUNCEMENTS BY THE ACTING MUNICIPAL MANAGER

- None
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B. MATTERS FOR CONSIDERATION

MAPCO: 33/03/17

PROVISION OF SUPPORT STAFF FOR THE POLITICAL OFFICE BEARERS

The Acting Municipal Manager gave the background on the matter and explained that the request is to seek authority from the Council for a provision of political office bearers with tools of trade.

The Deputy Mayor requested clarity on how come support staff to the political office bearer requires to be done through the Supply Chain Management processes.

The Acting Municipal Manager responded that the appointment of Service providers will require the supply chain management processes. However the appointment of personnel will follow the normal recruitment processes.

Cllr TJ Zungu requested the Acting Municipal Manager to give clarity on who is classified as an Office Bearer.

Cllr ZG Mthembu questioned which analysis was done to determine if the said office bearer requires security provision.

The Acting Municipal Manager responded that section 12 of the Municipal Structures Act determines the full time Councilor and that is a Councillor who is a classified as an office bearer. Furthermore he explained the provision of security for the mayor is standard however a personal security to any other Councillor is subject to a threat and risk analyses.

Cllr KP Ninela requested the Acting Municipal Manager to correct his statement and he referred the Acting Municipal Manager to the attachment in the agenda where it states the conditions of the provision of security to the Executive Mayor or the Mayor, is subject to risk analysis. He stated that his is not disputing the provision of the Mayoral body guards however the Acting Municipal Manager should provide

factual explanation to the Council. He then proposed that the Mayor be provided with support staff.

Cllr ZG Mthembu requested that the heading of the item should be corrected to office bearer not bearers since the item is only referring to the Mayor, as this may cause confusion in future if the item reflects as office bearers. He seconded the proposal that the Mayor be provided with support staff.

Cllr TJ Zungu questioned if there was a budget provision to cater for the support staff under the office of the Mayor.

The speaker clarified that the budget is available to cater for the provision of support staff.

The Council

RESOLVED THAT

1. The support staff to the political office bearer be done through the Supply Chain Management System.
2. The conditions of service for the incumbents to the posts shall be based on the collective agreements as agreed upon by parties as SALGBC, but inclusive of the following
 - a) The incumbents to the posts shall be appointed on the fixed term contract basis which concurrent to the term of office of respective principal.
 - b) The incumbents to the shall be appointed subject to the formal vetting by the South African Police Services, and
 - c) Firmly the incumbents to the posts shall be appointed on the trust and confidence relationship between the principal and the incumbent.

MAPCO: 34/03/17

NOMINATION OF DELEGATES TO REPRESENT AT SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION KWAZULU NATAL PROVINCIAL CONFERENCE 2016

The Acting Municipal Manager reported that on the 22 – 23 September 2016 there will be a provincial conference that will take place at Champagne Sport Resort. He informed the Council that the conference is held to nominate members of the provincial executive team, elect chairperson, elect three Deputy Chairpersons, six additional members and 1 national Executive Committee member. He stated that all municipalities are required to nominate up to four delegates of which one must be the Municipal Manager or representative thereof. Amongst the above nominated delegates the Council is required to nominate a Councillor who will be mandated to vote on behalf of the Municipality.

Cllr NS Ntuli proposed that Maphumulo Local Council be represented by the following Councillors at the South African Local Government Association Provincial Conference 2016:

1. Her Worship the Mayor
2. The Deputy Mayor
3. The Speaker

Cllr DB Luthuli seconded the proposal.

Cllr ZG Mthembu proposed that the name of Cllr TJ Zungu be added in the list as well as one of Amakhosi should represent in order to ensure that all political parties are well represented and Amakhosi are also represented.

The Acting Municipal Manager advised that this is strictly for Councillors it does not involve Amakhosi.

Cllr KP Ninela explained that the inclusion of IFP Councillor will be done in the spirit of unity.

Cllr NB Hlongwa objected the request by IFP Councillors.

Cllr HN Ngcobo stated that IFP Councillors have raised a valid point however it will be considered going forward.

Cllr NS Ntuli amended the resolution in that Her Worship the Mayor will be the representative mandated to vote on behalf of Maphumulo Municipality.

The Council

RESOLVED THAT

1. The four delegates to represent Maphumulo Municipality at the South African Local Government Conference 2016 are as follows:
 - a. The Acting Municipal Manager
 - b. Her Worship the Mayor
 - c. The Deputy Mayor
 - d. The Speaker
2. Her Worship the Mayor is mandated to vote on behalf of Maphumulo Municipality.

MAPCO: 35/03/17

CONSIDERATION OF GAZETTED UPPER LIMITS OF SALARIES, ALLOWANCE AND BENEFITS OF DIFFERENT MEMBERS OF MAPHUMULO MUNICIPALITY; COUNCIL

The Acting Chief Financial Officer presented the salary packages for all Councillors, furthermore he mentioned that the packages were supposed to be presented at the inaugural meeting.

Cllr NP Nxumalo raised concern about the method that was used to determine the number of the Executive Committee members and she further questioned what will happen to the salary of the fourth executive committee member since it was initially

budgeted for.

The Acting Chief Financial Officer responded that adjustments will be made during the budget adjustment in December/January.

The Council

RESOLVED THAT

1. It notes the determination of upper limits of salaries, allowances and benefits of different member of municipal council.
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MAPCO: 36/03/17

CONSIDERATION OF THE BUDGET PROCESS PLAN FOR 2017-18 FINANCIAL YEAR

The Acting Chief Financial Officer presented the budget process plan to the Council for consideration.

Cllr ZW Ninela raised his concern that the budget process plan is submitted late and highlighted that it was supposed to be adopted no later than 31 August and he stated that some of the stages of the budget process plan have already past its time.

The Deputy Mayor questioned that since the budget process plan is already late which is regarded as non-compliance, how much harm it will cause to wait until the strategic meeting to adopt the process plan. She mentioned that Councillors needs be taken through the process plan stages so that they fully aware what is expected from the budget process plan.

Cllr KP Ninela requested that the Council be informed of person who is responsible for submitting the budget process plan late.

The Acting Chief Financial Officer responded that the budget process plan approval can delay until the strategic meeting however it will result to more delay. Furthermore he explained that he is the person who is responsible for the budget process plan's late submission. He explained that his department was busy with financials which were due at the end of August. In that process his department omitted submitting the budget process plan on time.

Cllr HN Ngcobo accepted the apology given by the Acting Chief Financial Officer. She requested that non-compliance should be avoided at all cost in future. She added that the Council should also take full blame for not playing its oversight role in ensuring that positons are filled. She stated that acting employees are overloaded with work since they are occupying two positions.

Cllr KP Ninela mentioned that the Accounting Officer should take blame not the Acting Chief Financial Officer. He stated that the Accounting Officer is accountable to responding to the concerns that are raised by the Council.

The Acting Municipal Manager gave reasons for delay to submit the budget process plan as follows:

- When the previous Council was approaching its end of term meetings could not convene because Councillors were busy with campaigns for the elections.
- He stated that the meeting that took place thereafter was the inaugural meeting which had a number of standard items of which most were deferred to the meeting that took place on the 29 August 2016.
- He stated that this is the third meeting of this current Council.

The Deputy Mayor seconded that the Budget Process Plan be adopted and requested that the process should be explained to the Council at the strategic workshop.

The Council

RESOLVED THAT

1. It approves the 2017/18 Budget Process Plan as required by legislation.
 2. Budget Process Plan be presented to Councillors at the strategic meeting.
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MAPCO: 37/03/17

NOTICE IN TERMS OF SECTION 12 OF THE LOCAL GOVERNMENT MUNICIPAL STRUCTURES ACT, 1998: AMENDMENT OF MUNICIPALITIES DC29, KZN 291, KZN 292, KZN 293, KZN 294

The Acting Municipal Manager reported to the Council about the notice in terms of section 12 of the Local Government: Municipal Structures Act, 1998 on the amendment of Municipalities (DC29, KZN 291, KZN 292, KZN 293 and KZN 294).

Cllr DB Luthuli proposed noting of the notice and was seconded by Cllr KM Xhakaza.

The Council

RESOLVED THAT

1. It notes the notice in terms of section 12 of the Local Government of Municipal Structures Act, 1998 amendment of Municipalities (DC29, KZN 291, KZN 292, KZN 293 and KZN 294).
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MAPCO: 38/03/17

REQUEST FOR APPLICATION FOR SPEAKER TO BE FULL TIME

The Acting Municipal Manager presented the request for application of Speaker to be full time to the Council for consideration.

The Deputy Mayor requested clarity on how come the item is being submitted to the Council since it obtained a resolution in the previous council meeting.

The Acting Municipal Manager gave explanation that the item was being formalized since it had no attachment in the previous meeting. He requested the Council to formally consider the request for application of Speaker to be full time so that the matter will be forwarded to the MEC of Department of Co-operative Governance and Traditional Affairs for consideration.

The Deputy Mayor proposed that the application of Speaker to be full time be forwarded to the MEC of Department of Co-operative Governance and Traditional Affairs for consideration. The proposal was seconded by Cllr FM Ncalane.

The Council

RESOLVED THAT

1. The application of Speaker from part-time to full-time Councillor be made.
2. It authorizes the Acting Municipal Manager to make an application to the MEC of the Department of Co-operative Governance and Traditional Affairs to designate the Speaker to be a full-time Councillor.
3. If the above application is approved, the Acting Municipal Manager tables such letter of approval in an EXCO or Council meeting subsequent to receipt.
4. It authorizes the Acting Municipal Manager to process allowances and benefits for full-time Councillor position only upon the approval of the MEC of the Department of Co-operative Governance and Traditional Affairs (Cogta).

MAPCO: 39/03/17

PROVISION OF VEHICLES FOR DEPUTY MAYOR AND SPEAKER

The Deputy Mayor and Speaker were requested to leave the meeting whilst the Council considers the matter regarding provision of their vehicles.

In the absence of the Speaker the council elected a Councillor that will chair the meeting. The Mayor proposed the name of Cllr NS Ntuli to chair the meeting and was seconded by Cllr KM Xhakaza.

Cllr NS Ntuli chaired the meeting at this point.

Cllr KP Ninela raised concern that in the previous Council there were vehicles that were hired for the use of the Speaker and the Deputy Mayor through G-Fleet and the expenditure thereof is extremely high and it is also part of the irregular expenditure that the Council had to condone. He highlighted that it was also not clear how many vehicles were utilized from G-Fleet. He added that the former Deputy Mayors car got involved in an accident and there was no report that was submitted to the council. He informed the Council that thereafter the then Deputy Mayor ended up utilizing two vehicles including the Toyota Fortune which was a Municipal vehicle. He mentioned that there is no need for the Deputy Mayor and speaker to be given Municipal vehicles since they are not full time Councillors. He stated that once the position of the Speaker becomes full time the Council can convene and consider his provision with the vehicle.

Cllr NP Nxumalo requested explanation that if the Deputy Mayor and the Speaker are provided with new vehicles what will happen to the Toyota Fortune that is currently utilized by the Speaker.

Her worship the Mayor explained that the concerns that are raised by the Councillors regarding what occurred previous council are valid however there will be control measures in place regarding petrol and the usage of the vehicle. She stated that these will be submitted to relevant Portfolio committees and to Council for adoption. She explained the importance of the both the Deputy Mayor and the Speaker on having state vehicles.

The Acting Municipal Manager responded that the vehicle that is currently utilized by the Speaker has exceeded 300 000 km and it will go on auction.

Cllr JM Khathi congratulated the statement that was made by the Mayor and he therefore proposed the vehicles for the Speaker and the Deputy Mayor be purchased on condition that they will have control measures. Cllr KM Xhakaza seconded the proposal.

The Council

RESOLVED THAT

1. It authorizes the provision of the vehicle for the Mayor and the Deputy Mayor on provision that the vehicles will have control measures that will be adopted by the Council.

MAPCO: 40/03/17

REQUEST FOR LOAN APPROVAL FOR THE PURCHASE

The Acting Chief Financial Officer presented a comparison between purchasing of vehicles versus hiring of vehicles. He advised the Council that it will be a best option for the Municipality to take the purchase route versus the hiring. He stated that the hiring of vehicles is high and the Municipality will not gain from hiring. He mentioned that if the Municipality agrees on purchasing the vehicles, it will be required to apply for a long term loan of R9 million.

Her Worship the Mayor objected the proposal and stated that the current Council is only on its second month of the 5year term, it will not be on the best of the Maphumulo Community to apply for such a huge loan at such an early stage. She requested that before the Council considers the request for a loan approval, the Council should be provided with the information of current loans she made an example of the Municipal building and Municipal Plant. She stated that from the information that she was given there is a budget of R3 million for the purchase for vehicles. She mentioned that the Municipality cannot budget to purchase vehicles all at once she requested that there should be a prioritization. She proposed that currently the Municipality must purchase the three vehicles which are the vehicle of the Mayor, Deputy Mayor and Speaker. Cllr DB Luthuli seconded the proposal.

The Deputy Mayor requested that different car dealer be invited to conduct presentations at the strategic meeting so that the Council can do price comparison. Cllr NS Ntuli supported that the presentation by car dealers be conducted for price comparison.

The Council

RESOLVED THAT

1. The request for R9 million loan for the purchase of vehicles is not approved.
2. The deputation by different car dealers be conducted at the Strategic meeting.

The Deputy Mayor and Speaker rejoined the meeting at this point.

The Council requested that MAPCO: 42/03/17 be done before MAPCO: 41/03/17.

From this point the meeting was held in-committee, all officials were requested to leave the meeting and committee section was requested to capture the proceedings of the in-committee meeting for records purposes.

MAPCO: 42/03/17

CONSIDERATION OF CONTRACT OF THE ACTING MUNICIPAL MANAGER

Her Worship the Mayor reported that in the previous Council the Council took a resolution that authorized the then Mayor to request a secondment of Mr HN Maphumulo from the MEC of the Department of Co-Operative Governance and Traditional Affairs. She added that the request was declined and the response was received by the Municipality dated 23 March 2016. She stated that there were reasons for Department of Cooperative Governance and Traditional Affairs declining the application where stated as follows:

“Section 54A (1) stipulates that the municipal council must appoint a municipal manager as a head of administration of the municipality; or an acting municipal manager under circumstances and for a period as prescribed. Subsection (1) stipulates that **“A person appointed must at least have the skills, expertise, competencies and qualification”**. The Department of Cooperative Governance and Traditional Affairs (Cogta) stated that the information that was provided was assessed and based on that information, it appeared that Mr HN Maphumulo’s academic qualification and experience does not comply with the requirements stipulated in the regulations. In the same letter the Department of Cogta made mention that the Labour Court ruled in favour of the previous Municipal Manager Mr VW Mhlongo. The ruling was that he needs to be re-instated with his contract terminating in May 2017. Her Worship the Mayor stated that the council needs to correct the non-compliance raised by the Cogta in that the current Acting Municipal Manager’s academic qualifications and experience does not comply with the requirements with a stipulated regulation. Furthermore she informed the Council that she will write to Cogta and inform them that the Council has finalized the issue of Mr

VW Mhlongo the former Municipal Manager which was a settlement that was paid to him. She pointed out that in order to comply with the letter from Cogta she will write to Mr HN Maphumulo as well as ILembe District Municipality and thank him for his contribution as the Acting Municipal Manager in Maphumulo Municipality and inform him of the decision by the Council. She stated that the Council must propose a name of the new Acting Municipal manager and the name will be forwarded to Cogta for approval and should the name not meet the requirements of the Municipal Manager/Acting Municipal Manager the Council will be required to hold a special meeting to appoint another Acting Municipal Manager. She concluded by informing the meeting that she is currently busy with the process of appointing the Municipal Manager.

Cllr NP Nxumalo stated that retaining the current Acting Municipal Manager is already classified as non-compliance. She proposed that the Council should propose a name of the person internally that will Act in the position of the Municipal Manager whilst the Municipality finalizes the appointment of the Municipal Manager.

Cllr KP Ninela congratulated the Mayor for all her contribution thus far especially towards the issue of the Municipal Manager.

Cllr NS Ntuli proposed the name of Mr CS Mhlongo the Manager Community Services to Act in the position of the Municipal Manager for a period of three months starting on the 24th of September 2016 ending on the 24th of December 2016.

Cllr KP Ninela seconded the proposal and he advised the Mayor to verify with COGTA if the qualification of Mr CS Mhlongo meets the requirements to be an Acting Municipal Manager.

The Council

RESOLVED THAT

1. It terminates the Acting period of Mr HN Maphumulo that ends on 23 September 2016.
2. It authorizes the Mayor to write a letter to Mr HN Maphumulo informing him of the Council decision and to also thank him for the services he rendered in the Municipality during his period of being an Acting Municipal Manager.
3. It appoints Mr CS Mhlongo who is the Manager Community Services to act in the position of the Municipal Manager for a period starting 24 September 2016 to 24 December 2016.
4. It authorizes the Mayor to seek the MEC for Cooperative Governance and Traditional Affairs concurrence.

NB: Mr WD Mbongwa the Executive Manager Community Services and LED/Planning was asked to join the meeting at this point and he was informed of the resolution that was taken regarding the issue of the Acting Municipal Manager.

MAPCO: 41/03/17

CONSIDERATION OF CONTRACT OF THE ACTING CHIEF FINANCIAL OFFICER

Her Worship the Mayor reported to the Council that Mr V Dube has exceeded his period of Acting. She stated that Cogta raised concern that Mr V Dube's experience and qualification did not meet the requirement to occupy the position of the Acting Chief Financial Officer. She stated that the Council is required to correct that non-compliance.

The Deputy Mayor stated that in order to correct the non-compliance, she proposed the contract of Mr V Dube be terminated as the Acting Chief Financial Officer and proposed that the name of Mr GS Majola the Finance Manager to Act in the position of the Chief Financial Officer. Cllr DB Luthuli seconded the proposal.

The Council

RESOLVED THAT

1. It terminates the Acting period of Mr V Dube that ends on 23 September 2016.
2. It appoints Mr GS Majola who is the Manager Finance to act in the position of the Chief Financial Officer for a period starting 24 September 2016 to 24 December 2016.

TERMINATION

The meeting was terminated at 13H40 after a closing prayer by Cllr DB Luthuli.

Confirmation on the.....day of2016.

CHAIRPERSON