

**MINUTES OF THE SEVENTH MEETING OF MAPHUMULO MUNICIPAL COUNCIL
HELD ON 20 DECEMBER 2016 AT 14:20 IN 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, KP Ninela, ZW Ninela, JN Ntuli, NS Ntuli, MF Nzuzwa, SZM Nzuzwa, N Sithole KM Xhakaza and TJ Zungu

PRAYER Cllr TJ Zungu

LEAVE OF ABSENCE None

**ABSENT WITHOUT
LEAVE OF ABSENCE** Councillors: ML Ngidi

AMAKHOSI **Inkosi:** SA Hlongwa

ABSENT **Inkosi:** NA Bhengu, BC Khuzwayo and JM Ntuli

DEPUTATION L Shabane (Umnyakazo Development)

OFFICIALS CS Mhlongo (Acting Municipal Manager), WD Mbongwa (Director LED/Planning), MH Gumede (Acting Director Corporate Services/Manager Properties), AL Buthelezi (Manager Technical Services), CS Zulu (Manager Performance Management System), ND Hlongwa (Acting Manager Human Resource and Admin), BV Mthethwa (Acting Manager Supply Chain), 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 opened.

NOTICE CONVENING THE MEETING

The Acting Municipal Manager Mr CS Mhlongo read the notice convening the

meeting.

APPLICATION FOR LEAVE OF ABSENCE

The Acting Municipal Manager reported that the Acting Chief Financial Officer will not be present in the meeting.

ANNOUNCEMENTS BY CHAIRPERSON

- The chairperson announced that there will be a deputation rendered by Umnyakazo Development.
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ANNOUNCEMENTS BY THE ACTING MUNICIPAL MANAGER

- The Acting Municipal Manager announced that there will be an end year function which will be hosted in the afternoon for both the Councillors and officials at Kearsney Manor. Councillors and the officials were invited to attend.
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DEPUTATION

MAPCO: 77/07/17

PROPOSED SIGNING OF MEMORANDUM OF UNDERSTANDING IN RESPECT BAKERY PROJECT IN MAPHUMULO MUNICIPALITY

Mr L Shabane gave a brief presentation. He informed the meeting that he is from the company called Umnyakazo Development an appointed national service provider for bakery project funded by Transnet SOC Pty. He reported that two areas were identified within Maphumulo for bakeries which are Mphumulo (TT Ntuli) at ward 6 and Sindi (Siyathuthuka) at ward 11. He reported that the bakery will supply bread, cakes and all bakery products. He added that each bakery can create 14 jobs so for two bakeries a minimum of 28 jobs will be created. He explained that the bakeries will supply local tuck shops, clinics, school feeding schemes, prisons and the community at large. He added that the bakery projects will also support further enterprise development such as:

- Soup kitchen that will be sold daily
- Cake baking and scones for funerals and weddings
- Bread Transporters

Furthermore he stated that the bakery will also create temporary jobs through the development of the bakery such as building concrete slabs where the bakery will be placed. He pointed out that their team will ensure mentorship, coaching and skills development which enable capacity building sessions, their trainings will include the following:

- ❖ Technical training involving:
 - Utilization and maintenance of bakery equipment
 - Product Making (Bread and cakes)
 - Health and Hygiene
 - Safety procedures and emergency response plan

- ❖ Management, Administration and Finance
 - Business Management
 - Marketing
 - Finance Management
 - Stock Management

He stated that their proposals are as follows:

- Bakeries ownership move to Municipality compare to co-operatives as per proposed Memorandum of understanding, which includes all equipment.
- Signing of user agreements with co-operatives.
- Installation of electricity supply by municipality for equipment connections.
- Assist with baking training fees of R25 000 per co-operative totaling to R50 000, done by implementing agent.

The presentation was discussed at length there were lots of concerns raised regarding the bakery project and its operation. There were also concerns regarding the content of the memorandum of understanding. There were questions raised on how the co-operatives were identified. There were also concerns raised regarding the funding of the project. The Council suggested that the matter be referred to the relevant portfolio Committee to discuss the memorandum of agreement as well as the budget for proposal.

The Deputy Mayor proposed bakery project be approved and the memorandum of understanding regarding bakery be forwarded to the relevant portfolio committee for consideration. The proposal was seconded by Cllr ZW Ninela.

The Council

RESOLVED THAT

1. The bakery project is approved, and the memorandum of understanding is referred to the relevant portfolio committee for consideration.

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS

CONFIRMATION OF MINUTES OF MEETING NO 05 HELD ON THE 14th OF OCTOBER 2017

Minutes of the previous meeting number 5 held on the 14th of October 2016 were

considered. Cllr SZM Nzuza requested correction on page 1 her initials be corrected from “SMZ Nzuza” to “Cllr SZM Nzuza”.

After the correction was done, Cllr NP Nxumalo proposed the confirmation of minutes and was seconded by Cllr TJ Zungu. The minutes were confirmed as a true reflection of what transpired in that meeting.

MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING

The Deputy Mayor requested progress report on **MAPCO: 53/05/17 PROGRESS ON THE CASE BETWEEN MAPHUMULO MUNICIPALITY AND ROBERT BHEKITHEMBA NGUBANE.**

The Acting Municipal Manager explained that the matter regarding Mr BR Ngubane has not yet been finalized. The matter will be finalized on the 26 January 2017.

Her Worship the Mayor requested a progress report regarding **MAPCO: 49/06/17 CONSIDERATION OF INTEGRATED ENERGY CENTRE PROJECT**

The Director Local Economic Development and Planning explained that the matter is awaiting the sitting of the Ingonyama Trust Board which will take place in January.

Cllr KP Ninela requested a progress report regarding **MAPCO: 55/06/17 ESTABLISHMENT OF WARD COMMITTEES**

The Acting Municipal Manager reported that the report of ward committees will be presented in the next Council meeting.

CONFIRMATION OF MINUTES OF MEETING NO 6 HELD ON THE 01st OF NOVEMBER 2016

Minutes of the previous meeting number 6 held on the 01st of November 2016 were considered. No corrections were made. The Deputy Mayor proposed the confirmation of minutes and was seconded by Cllr NB Hlongwa. The minutes were confirmed as a true reflection of what transpired in that meeting.

MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING

The Deputy Mayor requested a progress regarding **MAPCO: 58/07/17 CONSIDERATION FOR UPPER LIMITS FOR SENIOR MANAGERS**

The Acting Municipal Manager responded that the resolution was implemented accordingly.

Cllr NP Nxumalo requested a progress report regarding **MAPCO: 60/06/17 NOTICE OF MOTION** regarding the investigation the council requested.

The Acting Municipal Manager responded that the investigation has not been finalized. The report will be submitted to the next Council.

Cllr KP Ninela raised concern on the issue of security provision of Cllr ML Ngidi that was discussed in the Executive Committee that it was not included in the agenda of the Council for consideration as per the resolution of the Executive Committee. He requested the item be included in the agenda for discussion.

The Acting Municipal Manager suggested that the matter be raised during the discussions of the minutes of the Executive Committee and the resolution will be taken.

Her Worship the Mayor stated that the item is included in the minutes of the Executive Committee for Council to consider.

A. STANDING AGENDA ITEMS

MAPCO: 65/07/17 DECLARATION OF INTEREST

The Chairperson gave an opportunity to the members of Council to declare if they have peculiar interest in the items listed in the agenda of the day.

No members declared peculiar interest in the items on the agenda.

The Council

RESOLVED THAT

1. No peculiar interests were declared on the items listed in the agenda.

MAPCO: 66/07/17 OPERATION CLEAN AUDIT

Her Worship the Mayor gave progress report on actions taken towards ensuring the Municipality achieves clean audit and also reported the challenges that still must be addressed to ensure that the Municipality achieves clean audit.

Cllr KP Ninela requested that all the matters of emphasis must be submitted to all Council meetings in order to enable the Council to track how far the Municipality is in terms addressing the action plan.

The Acting Municipal Manager reported that the audit report will be submitted in the next council meeting. The report entails matters of emphasis and the Management will be required to come up with action plans which will be guide on which direction the Municipality needs to move to in order to address clean audit.

The Council

RESOLVED THAT

1. Audit report be submitted to the next council meeting so that action plans will be identified and thereafter it will enable the council to check progress made on actions plans set out.

MAPCO: 67/07/17
BACK TO BASICS

The Manager Performance Management System reported on the progress of the back to basics. He added that the Municipality is awaiting an assessment of the back to basics.

The Council

RESOLVED THAT

1. It noted the progress report on back to basics.

MAPCO: 68/07/17
OPERATION SUKUMA SAKHE

The Acting Municipal Manager gave a progress report on operation sukuma sakhe. Furthermore he added in future operation sukuma sakhe and back to basics will be incorporated into one report going forward.

The Council

RESOLVED THAT

1. Operation Sukuma Sakhe progress report was noted.
2. In future operation Sukuma Sakhe and Back to Basics will be incorporated into one report.

B. MATTERS FOR INFORMATION

MAPCO: 69/07/17
REPORT OF THE EXECUTIVE COMMITTEE MEETING NO 1 HELD ON THE 22
NOVEMBER 2016

Her worship the Mayor reported on the executive meeting and the resolutions that were taken by the Council for information and endorsement.

The Council requested to consider the following item from the Executive Committee

MAPEX: 13/01/17
THREAT ASSESSMENT: SECURITY RISK ASSESSMENT OF CLLR ML NGIDI

Cllr KP Ninela raised his concern that there are no recommendations from the Executive Committee regarding the security provision of Cllr ML Ngidi. He proposed that the provision of security to Cllr ML Ngidi be given, he supported his statement by stating that an assessment report was submitted and furthermore he stated that according to the tool of trade every Councillor is entitled to be provided with security provided the assessment shows that his/her life may be in danger.

Cllr ZG Mthembu seconded the proposal. He stressed that the matter be taken very serious.

Cllr ZW Ninela stated that issue of Cllr ML Ngidi is a concern to all Council members. He pointed out that currently there is no budget to cater for the provision of security of Cllr ML Ngidi.

Cllr HN Ngcobo seconded Cllr ZW Ninela. Furthermore she requested to clarity as to which assessment report does the Council consider between the assessments of SAPC or the intelligence report. She made reference that in the previous term of council the former Deputy Mayor was also refused security provision also due to budget constraints.

The Acting Municipal Manager reported that he is not sure which report is more valuable between the SAPS report and Intelligence report. However the current procedure is that recommendations are submitted to the local police, thereafter the matter is reported to the cluster and the final stage is that it gets reported to National.

Cllr KP Ninela stated that it is a concern to him that now the budget is an issue regarding the security provision he reported that previously the Council has never considered the budget when it comes to the provision of security it is normally based on a threat assessment. The highlighted that according to the procedure of meetings the resolution was obtained after Cllr ZG Mthembu seconded his proposal.

The Chairperson stated that there was an objection on the first resolution. He stated that the second resolution will stand.

IFP raised concern and requested the meeting to vote.

8 IFP Councillors voted that Cllr ML Ngidi be provided with security.

12 ANC Councillors voted against the provision of security to Cllr ML Ngidi.

The Council voted on the matter

RESOLVED THAT

1. The majority of the Council voted that Cllr ML Ngidi should not be provided due budget constraints.
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MAPCO: 70/07/17

SUPREME COURT JUDGEMENT ON NATAL JOINT MUNICIPAL PENSION FUND (NJMPF) VERSUS MUNICIPAL EMPLOYEES PENSION FUND (MEPF)

The Acting Manager Human Resource informed that Council that the Municipality has received a correspondence from South African Local Government Association dated 26 October 2016 indicating that the Supreme Court ruled in favour of the NJMPF in the matter against the Municipal Employees Pension Fund. He stated that the court ruled that employees in municipalities in terms of the current legislation can only join the NJMPF.

The Acting Human Resource Manager stated that the matter is submitted to Council for information.

The Council

RESOLVED THAT

1. It notes the correspondent regarding the Supreme Court judgment.

MAPCO: 70/07/17

PROGRESS REPORT ON RECRUITMENT OF THE MUNICIPAL MANAGER

The Acting Municipal Manager reported that the interviews are scheduled to take place on the 21st of December 2016.

The Council

RESOLVED THAT

1. It notes the progress report on recruitment of the Municipal Manager.

MAPCO: 71/07/17

PROGRESS REPORT ON RECRUITMENT OF THE DIRECTOR CORPORATE SERVICES

The Acting Municipal Manager reported that the interviews are scheduled to take place on the 23rd of December 2016.

The Council

RESOLVED THAT

1. It notes the progress report on recruitment of the Director Corporate Services.
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C. MATTERS FOR CONSIDERATION

MAPCO: 73/07/17

REPORT FOR ANNUAL RECESS AND EARLY PAYDAY

The Acting Municipal Manager reported that the item is submitted to request the annual recess and early payday.

Cllr HN Ngcobo proposed that the recommendations for annual recess and early payday be approved. Cllr FM Ncalane seconded the proposal.

The Council

RESOLVED THAT

1. Endorses the payment of salaries for employees and councilors on the 18th of December 2016.
2. Authorizes recess period for Councillors starts on the 21st of December 2017 till the 8th of January 2017.
3. Authorizes recess period for officials starts on the 23rd of December till the 3rd of January 2017.
4. Authorizes the Municipal offices to be opened on the 4th of January 2017.

MAPCO: 74/07/17

CONSIDERATION OF OFFICE SPACE FOR MAPHUMULO REGISTERING AUTHORITY

The Acting Director Corporate Services informed the Council of the requirements the Municipality needs to meet before the department of transport supply with the necessary equipment to operate the registering authority.

The Deputy Mayor proposed the approval of the recommendations. The proposal was seconded by Cllr NB Hlongwa.

The Council

RESOLVED THAT

1. The Service Provider be transferred/moved from the current office to the proposed office.
2. Existing lease agreement be used as a binding document between the two parties.

MAPCO: 75/07/17

CONSIDERATION OF MAPHUMULO REGISTERING AUTHORITY

The Acting Director Corporate Services gave a progress report on the Maphumulo registering authority.

The Deputy Mayor proposed the approval of the recommendations. The proposal was seconded by Cllr NB Hlongwa.

The Council

RESOLVED THAT

1. It approves Maphumulo registering authority by department of transport.
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**MAPCO: 76/07/17
PREPARATIONS OF THE 2017-2021 IDP**

The Director Local Economic Development and Planning Corporate Services gave a progress report regarding the preparations of 2017-2021 IDP.

The relevant Head of Department was requested to make the following amendments on the priority list: Electricity - Ward 1 and Ward 8, Sanitation – Ward 6 and School – Ward 6

Cllr KM Xhakaza proposed the noting of the item and Cllr JN Ntuli seconded the proposal.

The Council

RESOLVED THAT

1. It notes the report on the preparation of 2017–2021 IDP be noted by the Council.
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**MAPCO: 78/07/17
SKILLS AUDIT FOR COUNCILLORS**

The Acting Human Resource reported that item is aimed at advising the Council about the Councillors Skills Audit that the Department of Co-operative Governance and Traditional Affairs is expecting the Councillors to undergo in order to determine the skills gap. The Council is requested to approve the implementation of Councillor Skill audit implementation. The Councillors are requested to submit completed forms to the Municipality no later than 5th of January 2017.

Cllr NB Hlongwa proposed the approval of the recommendations. Cllr SZM Nzuza seconded the proposal.

The Council

RESOLVED THAT

1. It approves the implementation of Councillor Skills Audit implementation.
2. The Councillors submit completed forms to the Municipality not later than the 5th of January 2017.

MAPCO: 79/07/17

PROPOSED WORKSHOP ON MUNICIPAL FINANCE MANAGEMENT ACT SECTION 71 & 72 REPORTS

The Acting Municipal Manager reported that a correspondent has been received from the Provincial Treasury to train Municipal Council on Municipal Finance Management Act section 71 & section 72 reporting. He stated that the recommendations are that the Council approves the two hour workshop on the next Council sitting scheduled for January 2017. In conclusion the Acting Municipal Manager stated that the Municipality is required to write a letter to Provincial Treasuring confirming the Council interest on proposed workshop and to also provide the date as per the Council schedule.

Cllr MH Khoza proposed the approval of the recommendations regarding the training. Cllr TJ Zungu seconded the proposal.

The Council

RESOLVED THAT

1. It approves a two hour workshop by the Provincial Treasury on the next Council sitting scheduled for January 2017.
2. The Municipality writes a letter to Provincial Treasury confirming Council interest on proposed workshop and provides the date as per the Council schedule.

MAPCO: 80/07/17

CONSIDERATION OF IRREGULAR EXPENDITURES

The Acting Municipal Manager reported that the item is submitted to request Council permission to pay due amounts due to the service providers that were appointed by the Municipality but their appointments contravene the municipal supply chain management policy and procedures as a result these payments are irregular expenditure to the municipality.

The Acting Municipal Manager gave the following information:

Infinity Alliance (Pty) LTD was appointed on an amount of R9, 3 million, he added that the appointment was done by the former Municipal Manager Mr HN Maphumulo for the electrification project in ward 1 in terms of municipal supply chain regulation no32. The payment of Infinity results to R9, 3million irregular expenditure.

Bamboo Rock 1349 cc was appointed on an amount of R4, 4 million. Bamboo Rock cc 1349 was appointed by the Municipality for construction of community hall in ward 08 in terms of section 116(2) (a) of the Municipal finance Management Act no56 of 2003. This project result to irregular expenditure of R4, 4 million.

Umzabalazo Investment (Pty) LTD was appointed for an amount of R2, 5 million. Umzabalazo investment was appointed by the municipality in terms of municipal supply chain regulation no36 deviation from the procurement process.

Insabula was appointed to construct Oshikishini Hall at a cost of R789 261.00. On completion of the project, Director Technical Department appointed Insabula to do additional work at a cost of R579 715.81 without following procurement procedure.

Legal fees currently the Municipality has a contract with Menzi Ngxongo attorneys but there is a number of Municipal cases which are not represented by Menzi for different reasons depending on the nature of the case. All the other attorneys used, supply chain management processes were not followed, this resulted to their payments being irregular.

The Acting Municipal Manager reported that the total amount of the irregular expenditure amounts to R17 million.

He added that the Provincial Treasury is currently investigating the issue of the following service providers:

- Infinity Alliance (Pty) LTD
- Bamboo Rock 1349 cc

Cllr ZG Mthembu proposed that the payments must not be paid those responsible for the incorrect appointment of service providers must account. Cllr KP Ninela seconded the proposal.

Her Worship the Mayor agreed with the concerns raised by Cllr ZG Mthembu and Cllr KP Ninela however he stated that if the Municipality does not pay for the mentioned irregular expenditures it will affect the service delivery. She stated that this will also affect the equitable share. Based on those reasons Her Worship the Mayor he requested that the payment of irregular expenditure be approved.

The Acting Municipal Manager advised that not authorizing irregular expenditure will affect service delivery and the equitable share. The said service providers will take the municipality to court.

Cllr ZW Ninela raised concerns regarding the irregular expenditure in conclusion he seconded that the payment of irregular expenditures be approved. Her Worship the Mayor seconded the proposal.

Cllr JM Khathi requested that the investigation report be brought to the Council.

Cllr NP Nxumalo pointed out that the IFP Councillors are not part of the resolution that authorizes the payment of the said irregular expenditures.

The Council

RESOLVED THAT

1. It approves the payment for an amount of R17 million for irregular expenditure for the following service providers:
 - Infinity Alliance (Pty) LTD R9, 3 million
 - Bamboo Rock 1349 cc R4,4 million
 - Umzabalazo Investment (PTY) LTD R2, 5 million
 - Insabula R579 715.81
 - Legal Fee amount not disclosed on the report

MAPCO: 82/07/17

CONSIDERATION OF EXPIRY OF ACTING APPOINTMENTS OF ACTING CHIEF FINANCIAL OFFICER AND THE ACTING MUNICIPAL MANAGER

Her Worship the Mayor proposed that the acting appointment of the Acting Municipal Manager Mr CS Mhlongo be extended with one month whilst the Municipality finalizes the appointment of the Municipal Manager. Furthermore she proposed that the acting period of the Acting Chief Financial Officer Mr GS Majola be extended for a period of three months. Cllr NS Ntuli seconded the proposal.

The Council

RESOLVED THAT

1. It extends the Acting period of the Acting Municipal Manager Mr CS Mhlongo for a period of one month which ends on the 23 of January 2017.
2. It extends the Acting period of the Acting Chief Financial Officer Mr GS Majola for a period of three months which ends of the 23 of March 2017.

MAPCO: 83/07/17

PROGRESS REPORT ON MUNICIPAL CASES

The Acting Human Resource Manager gave progress report on the Municipal cases. The cases and status of cases were as follows:

1. ZZG Gombela – Unfair Labour Practice - Arbitration was held on 4th of November 2016. Parties were requested to make written arguments. The final response of the applicant to the arbitrator was due on the 12th of December 2016. The municipality is now waiting for arbitration outcome.
2. TS Gasa – Unfair Labour Practice - Arbitration was held on the 10th of November 2016. The applicant withdrew the case and it is now officially closed.
3. MT Makhanya – Interpretation/Application Collective Agreement - Conciliation was on the 11th of November 2016. No agreement was reached. The applicant has got the right to refer the case on Arbitration.
4. NC Sangweni – Unfair dismissal - Arbitration was held on the 5th of December 2016. Parties resolved to settle the matter before the actual sitting of Arbitration. The settlement agreement was that the Municipality shall pay the amount of R30 000.00 in two trenches starting from the 25th of January 2017 and 25th January 2017.

The Acting Human Resource Manager requested the Council to consider the following recommendations, to note the current status of cases and to approve the settlement amount of R30 000 payable to the applicant the late Mr NC Sangweni in two trenches, one on the 25th of January 2017 and 25th January 2017.

Cllr ZW Ninela proposed that the recommendations be approved. Cllr MH Khoza seconded the proposal.

The Council

RESOLVED THAT

1. It notes the current status on cases.
2. It approves the settlement amount of R30 000 payable to the applicant Mr NC Sangweni in two trenches one on the 25th of January 2017 and 25th January 2017.

The following item was discussed in an in-committee meeting. The Acting Municipal Manager then gave the following verbal report to committee section.

MAPCO: 81/07/17

INVESTIGATION OUTCOME OF THE EXECUTIVE MANAGER TECHNICAL SERVICES

The Council after considering the investigation report. The Council agreed that the case was serious and therefore the Municipality should proceed with disciplinary hearing. The Acting Municipal Manager was authorized to proceed with the appointments of the presiding officer and the prosecutor.

The Council

RESOLVED THAT

1. The disciplinary hearing for the Executive Manager Technical Services must proceed.
2. It grants the Acting Municipal Manager authority to appoint the presiding officer and the prosecutor.

TERMINATION

The meeting was terminated after an in-committee meeting no indication of time was given to Committee Section.

Confirmation on the.....day of2017.

CHAIRPERSON