

# ENDUMENI MUNICIPALITY

**MINUTES** of a **SPECIAL EXCO MEETING** which was scheduled to take place on Wednesday, 23 March 2011 but that was held in the **COUNCIL CHAMBER, CIVIC CENTRE, 64 VICTORIA STREET, DUNDEE** on **FRIDAY, 25 MARCH 2011** at **15h00**

## **PRESENT:**

### **Executive Committee:**

Cllr Ms W N Mbatha	Mayor – Chairperson
Cllr A M Raubenheimer	Deputy Mayor
Cllr Ms R T Nukani	

### **Councillors:**

Cllr E M Adam  
Cllr T B Mkhize  
Cllr S E Ndim  
Cllr Ms P J B Ngobese  
Cllr Ms D P Nkosi  
Cllr D Singh

### **In Attendance:**

Mr J B Maltman	Acting Municipal Manager
Mr S Perumall	Executive Manager: Corporate Services
Mr I Grisdale	Chief Financial Officer
Mr C J Carelse	Acting Manager Technical Services
Mr A J van Wyk	Senior Manager: Corporate Services
Mr C J Retief	Senior Manager Legal & Estates
Cllr P G Mabilisa	Communications Manager



1. **Opening**

Cllr A M Raubenheimer opened the Meeting with prayer



2. **Applications for Leave of Absence**

**RESOLVED**

THAT the apologies received from Cllrs P M Bisram and A M Mthembu be noted.



3. **Official Announcements by Speaker/Chairperson /Municipal Manager**

Nil



4. **Minutes of Previous Minutes**

Nil



5. **Questions Of Which Notice Has Been Given**

Nil



6. **Reports Of The Executive Committee To The Council**

Nil



7. **Petitions**

Nil



8. **Motions**

Nil



9. **Presentation**

Nil



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**Part C**  
**MATTERS TO BE REFERRED**  
**TO COUNCIL**  
**FOR CONSIDERATION**

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C 01/23/03/11

WARD 6 COMMITTEE MINUTES 3 FEBRUARY 2011

(B3/2)

**RESOLVED TO RECOMMEND**

**THAT**

1. *Ward Allocation R400 000*

The Endumeni Municipality approve of the implementation of ward six budget allocation as per schedule "A" attached to the minutes.

2. *Coal Transportation*

The Endumeni Municipality after considering Ward Six Committee minutes of 3 February 2011 and minutes of a Slater Coal Watt Road Committee meeting of 16 November 2010, and various other sets of minutes relating to complaints received in respect of the transportation of coal via the coal transportation route Watt and Argyle Street's and purported illegal transportation of coal via the Dundee CBD as supported by various documents, affidavits and other complaints received over a protracted period as attached to the Endumeni Council minutes per the following annexures:

"A1" Minutes of Ward 6 Committee Meeting held in the Main Committee on Thursday, 3 February 2011 at 10h00

"B" Municipal Infrastructure Grant Project Registration Form: Upgrade of Watt Road

"C" Endumeni Council Resolution C10/06/12/10.

"D" Minutes of a Meeting of Watt Road Committee that took place in Committee Room on 16 November 2010

"E" Application to Construct a Coal Washing Plant on Sub 267 of the Farm Coal Field No. 2273

“F” Application for Subdivision Sub 267 of the Farm Coal Field 2273

“G1” Affidavit A L Beharie

“G2” Affidavit D M Dheena

“G3” Affidavit V Pillay

“G4” Affidavit C V Moodley

“G5” Affidavit G Ruthrum

“G6” Affidavit A Khan

“G7” Affidavit D B Bhugaloo

“G8” Affidavit V Soogream

“G9” Affidavit P Pillay

“G10” Affidavit M Manneson

”H” Minutes of a Meeting to Review Alternative Road Transport Arrangements for the Aviemore and Oosthuizen Coal Mines held on 26 June 2002 in the Main Committee Room, Dundee at 09h00

“I” Minutes and Complaints

“J” Slater Coal Unequivocal Commitment to Effect Repairs to Damages Roads Dundee See Endumeni Executive Committee Resolution B16/17/10/05.

“That the Endumeni Municipality condone the actions of Manager Technical Services in authorizing the usage of Municipal trailer NDE 279 to Slater Coal Pty Ltd in order that the said company repair damaged coal transportation routes, namely Argyle Street, Beaconsfield Street, Victoria and Commercial roads.”

3. The complaints relating to Slater Coal Pty Ltd, Forbes Coal and Homeland Mining pertaining noise, coal pollution, overloading, traffic violations, unsafe road conditions and public disturbance caused by coal trucks operating in Special Residential and General Commercial areas with mixed use consent approvals as defined per Dundee Town Planning Scheme in the course of Preparation, be noted. The Endumeni Municipality be bound to adopt a position, in the absence of approved comprehensive coal transportation plans as prescribed

per municipal conditions of approval establishing a coal washing plant on sub 267 of farm Coalfield No 2273, after investigation the complaints of residents are deemed valid. Consequently, the transportation of coal is considered to have a detrimental impact on said areas. Therefore, without a structured arrangement between the parties the Endumeni Municipality is unable to appropriately maintain the road and storm water infrastructure in affected areas. Furthermore it be noted that certain of the prescribed legislative approvals have not been sought by Companies or alternatively Companies are in breach of certain terms and conditions as specified in the original approvals or further municipal resolutions taken in foregoing regard;

4. Turning to the issue of a proposed Municipal Infrastructure Grant Application (MIG), Endumeni Municipality by enquiry with (MIG) unit confirm (MIG) to be a conditional grant that mandates capital projects for the upliftment of previously marginalized communities and therefore the use of MIG funding to benefit a Coal enterprise falls outside the scope of jurisdiction of MIG and shall not be considered further. The Endumeni Municipality is therefore of the view that MIG funds cannot be used to upgrade a coal transportation route and Slater coal (Pty) Ltd Forbes Coal be liable for all rehabilitation costs of said roads. Endumeni council resolution C 10/06/12/10 and all other resolutions supporting said MIG application to construct a coal transportation route be rescinded and project be removed from 2010/2011 Endumeni IDP;
5. The Endumeni Municipality notes an application to construct a coal washing plant lodged by C.B.R. Mining (Pty) Ltd to process “30 000 tons of coal per month on a dayshift basis” and to be serviced from coal reserves surrounding “Dundee” only, on sub 267 of farm Coalfield No 2273 and in this regard the former Dundee TLC formally adopted the following resolution per resolution number C06/04/1998/6 see annexure “E”;
6. “The application submitted by CBR Mining Pty Ltd to construct a coal washing plant sub 267 of the farm Coalfield No. 2273 be approved subject to the following conditions:
  - 6.1.1.1 The applicant submits building plans for approval by the Local Authority in terms of the National Building Regulations Act 103 of 1977.
  - 6.1.1.2 The applicant submit for approval by Council a full Environmental Management Plan in accordance with regulations laid down by the Department of Mineral and Energy Affairs.

- 6.1.1.3 In terms of PTB 31566 Conditions of Establishment (approval) Clause 13. The applicant should seek the Ministers of Local Government's prior approval for the development in question in terms of Section 11 (2) of the Ordinance.
- 6.1.1.4 The applicant is to provide the Local Authority with a transportation plan indicating the routes to be used within the jurisdiction of the Local Authority area for approval by Council. The Council reserve the right to alter the transportation plan to its satisfaction.
7. Endumeni Municipal records reflect applicants have failed to submit building plans for approval by the Local Authority in terms of the National Building regulations ACT 103 of 1977 in breach of the conditions of establishment development as granted per PTB 31566;
  8. Endumeni Municipal records reflect applicants have failed to submit for approval by Municipality a full Environmental Management Plan in accordance with regulations laid down by the Department of Mineral and Energy Affairs or alternatively failed submit for approval by Municipality a revised full Environmental Management Plan indicating a substantial increase in scope of operations in accordance with regulations laid down by the Department of Mineral and Energy Affairs;
  9. The Committee notes that Slater Coal Pty Ltd purchased the subject erven and as successor in title only enjoys development approvals granted to CBR mining (Pty) Ltd and so transferred to Slater Coal subject to the terms and conditional original approval;
  10. The Endumeni Municipality notes meaning ascribed by the Oxford English Dictionary to the word "plan" as a "scheme of arrangement" and further clarifies the phrase as a "table indicating places, and intended proceedings". Endumeni Municipality is therefore of the view that any approval of a coal washing plant is subject to the approval of a transportation plan being a "scheme of arrangement" to which the Local Authority enjoys the explicit right to alter said transportation plan to its satisfaction in exercising a power in the public interest;
  11. To date the applicants have not tabled a Transportation plan being a "scheme of arrangement" requiring the consideration of the Endumeni Council and as such the municipality has not been able to control or manage such plan in the absence of an approval of the applicants coal

washing activities. The issue is ventilated in minutes of a meeting relating to access arrangements to Avimore Coal mine in the main committee room Civic centre on 26 June 2002. The applicant accepted liability in principle for maintenance and rehabilitation of coal transportation route but to date has not put in place a formal scheme or arrangement with the local Authority as per annexure "E";

12. The Endumeni Municipality gives notice in terms C 06/04/1998/6 to applicant Forbes Coal / Slater Coal Pty Ltd be directed to lodge a comprehensive Transportation Plan within sixty days of such notification indicating the routes to be used within the jurisdiction of the Local Authority area for approval by Council to process "30 000 tons of coal per month on a dayshift basis" and to be serviced from coal reserves surrounding "Dundee" only on sub 267 of farm Coalfield No 2273. Endumeni Municipality gave consideration to ward 6 committee minutes and annexures "A1", "B", "C", "D", "E", "F", "G1-10", "H", "I", "J", "K", "L", "M" in considering the Economic importance of mining and the further interests of residents who live adjacent to coal routes. The Transportation plan shall detail the following non negotiable elements i.e.:

- 12.1 Coal trucks are permitted to only travel on said coal transportation route between 07:00 and 17:00 Monday to Friday and the transportation of coal be expressly forbidden on weekends;

- 12.2 Coal trucks are permitted to only travel on coal transportation route between 07:00 and 17:00 Monday to Friday with appropriately fitted quick release tarpaulins by means of an approved mechanical system to mitigate environmental pollution.

13. The Applicant Slater Coal (Pty) Ltd /Forbes Coal appoint a Professional Civil Engineer to compile a Comprehensive transportation plan addressing Coal transportation from the Aviemore and Magdalena Collieries. The Endumeni Municipality exercises jurisdiction over roads as depicted on a plan attached to the minutes as per Annexure "K". The Applicant Slater Coal (Pty) Ltd /Forbes Coal accept unconditional liability for costs associated with the immediate implementation transportation plan and ongoing rehabilitation costs associated with said coal transportation. The initial phase to rehabilitate all roads is to be completed within a prescribed period of twelve months of approval by

the local Authority and enjoy a design life Twenty years certified by the applicants Civil Engineer. The roads to be rehabilitated as per the earlier undertakings of Slater Coal Pty Ltd and evident by the damage caused by Slater Coal Pty Ltd to roads as highlighted in red as per Annexure “J” attached to the minutes;

14. Turning to the issue of purported coal transportation routes that traverse Karellandman Street, Victoria Street, Union Street, Wilson Street Commercial Road and Gladstone Street as highlighted in red as per Annexure “M” attached to the minutes. The Endumeni Municipality in the absence of appropriate Provincial construction and maintenance subsidies and failure by authority to maintain assets, Coal Transportation plans and environmental management plans that mitigate the effects of coal pollution. The transport of coal through Dundee CBD by unanimous resolution is expressly forbidden. The Head of Safety and Security is instructed with immediate effect to install road traffic signage on the extremities of all of the above streets indicating the transportation of coal to be a prohibited activity for all vehicles in excess of 20 tons and conduct daily law enforcement operations to be reported to the Executive Committee as per monthly traffic law enforcement report. It be further noted that homeland mining has failed to lodge application as prescribed by the KwaZulu-Natal Planning and Development Act 2008 and the Head of Legal Services be directed to draft coal transportation bylaws for promulgation;
15. The issue of Mrs M Manneson would appear to crystallize the issues highlighted by residents who reside adjacent to Endumeni coal transportation routes in Dundee. Slater Coal Pty Ltd Forbes Coal are to investigate the veracity of the allegations with a view to achieving a expeditious resolution to the complaints and table a report for the consideration of Council within a prescribed period of 30 days;
16. The Endumeni Municipality via SCM policy authorize the appointment of the following panel to review application to construct a coal washing plant lodged by C.B.R. Mining (Pty) Ltd to process “30 000 tons of coal per month on a dayshift basis” and to be serviced from coal reserves surrounding “Dundee” only, on sub 267 of farm Coalfield No 2273 and further asses coal transportation plans as detailed in sections 11 an 13 of resolution;

- 16.1 Acutt and Worthington Council Legal Advisors.
- 16.2 SSI Transportation Engineers.
- 16.3 SSI Town Planning Consultants.
- 16.4 SSI Environmental Consultants.
- 16.5 Shepstone & Wylie Environmental law

- 17. After considering the advice of consultants appointed per section 14 above. The Municipal Manager be authorized to instruct Acutt and Worthington to engage Senior counsel institute proceedings on an urgent basis and obtain the necessary orders in the Provincial Division of the Supreme court should the issues highlighted in sections 11 and 12 of above resolution not be resolved in 60 days as detailed in 11 and 12 of above resolution;
- 18. HSK Simpson and partners Council valuers in conjunction with consultants in 14 above are to compile a comprehensive valuation report after investigation of alternative valuation options open to Endumeni Municipality in the determination of market related values of coal washing plants and coal mining enterprises located within the jurisdiction of the Endumeni Municipality subject to application of Endumeni rates policy, bylaws in a determination of an appropriate rates randage in terms of Municipal property rates Act.



C 02/23/03/11

**COAL LOADING SITE GLENCOE/MIRANDA MINERALS** (R3/1)

**RESOLVED TO RECOMMEND**

**THAT** the objection from Hellberg, Thöle Inc. relating to a coal loading siding at Glencoe/Miranda Minerals be noted. However in the foregoing regard the Municipality not having had site of applicants final development proposals with reference to Coal Transportation Routes and an EMP be unable to consider the matter.



**RESOLVED TO RECOMMEND**

**THAT**

1. The Endumeni Municipality note in terms of Section 5 of the Municipal Systems Act 2000 the Draft review of the Endumeni Integrated Development Plan for the fiscal year 2011/2015 and following plans that form part of the IDP or alternatively sector Plans
  - 1.1 Executive Summary & IDP Report
  - 1.2 Objective & Strategies
  - 1.3 IDP Project Table
  - 1.4 Service Delivery & Budget Implementation Plan
  - 1.5 Turnaround Strategy
  - 1.6 Strategies to Implement Endumeni Turnaround Strategy
  - 1.7 Roles and Responsibilities of Key Role-players as defined in the Implementation of a Turnaround Strategy
  - 1.8 Financial Plan
  - 1.9 Capital Investment Plan
  - 1.10 Performance Management System
  - 1.11 Spatial Development Framework Sector Plan
  - 1.12 Maps
  - 1.13 Institutional Plan
  - 1.14 Organigrams
  - 1.15 Work Skills Plan
  - 1.16 Human Resource Strategy
  - 1.17 Employment Equity
  - 1.18 Gender & Poverty Reduction Plan
  - 1.19 Transport Sector Plan
  - 1.20 Housing Plan
  - 1.21 Local Economic Development Plan
  - 1.21 Agricultural Resources Plan
  - 1.22 Integrated Waste Management Sector Plan
  - 1.23 Safety Sector Plan
  - 1.24 Disaster Management Plan
  - 1.25 Communication Plan
  - 1.26 Endumeni Succession Plan
  - 1.27 Endumeni Placement Plan
  - 1.28 Recruitment Selection & Placement Policy
  - 1.29 Employment Policy for Temporary Workers
  - 1.30 Procedure for the appointment of Temporary Workers

