

ENDUMENI MUNICIPALITY

MINUTES of a **SPECIAL MEETING** of the **ENDUMENI TOWN COUNCIL** scheduled to take place on **MONDAY, 17 MAY 2010** but was postponed and held in the **COUNCIL CHAMBER, CIVIC CENTRE, 64 VICTORIA STREET, DUNDEE** on **WEDNESDAY, 19 MAY 2010** at **16h55**

PRESENT:

Councillors:

Cllr D Singh	(Speaker - Chairman)
Cllr Ms W N Mbatha	Mayor (From 14h10)
Cllr P M Bisram	
Cllr P G Mabilisa	
Cllr T B Mkhize	
Cllr A M Mthembu	
Cllr S E Ndim	
Cllr Ms D P Nkosi	
Cllr Ms R T Nukani	
Cllr A M Raubenheimer	
Cllr Ms J A Tshabalala	

In Attendance:

Mr J B Maltman	Acting Municipal Manager
Mr S Perumall	Manager Corporate Services
Mr I Grisdale	Chief Financial Officer
Mr A J van Wyk	Head: Administration
Mr C J Retief	Head: Legal & Estates
Ms B A Mbatha	Assistant Head: Admin (D)



C 01/05/2010

Opening

The Speaker, Cllr D Singh, opened the meeting in prayer.



C 02/05/2010

Applications for Leave of Absence

RESOLVED

THAT the apology received from Cllr E M Adam be noted.



C 03/05/2010

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

The Council was of the opinion that it needed to appoint an Acting Municipal Manager.

After discussion it was,

RESOLVED

THAT

1. Mr J B Maltman be appointed as Acting Municipal Manager until 31 July 2010;
2. Mr C J Carelse (Snr) be appointed as Acting Manager Technical Services while Mr J B Maltman is acting as Municipal Manager.



C 04/05/2010

Confirmation of Minutes

Nil



C 05/05/2010

Questions Of Which Notice Has Been Given

Nil



C 06/05/2010

Reports Of The Executive Committee To The Council

Executive Committee Meeting: 19 May 2010
(SUBMITTED VERBALLY)



C 07/05/2010

Petitions

Nil



C 08/05/2010

Motions

Nil



C 09/05/2010

Presentation



MUNICIPAL MANAGER

Part A

A 01/17/05/10-1 WARDS 1 & 2 WARD COMMITTEES: DRAFT BUDGET 2010/2011 (B3/4)



A 01/17/05/10-2 WARDS 3 AND 6 WARD COMMITTEES 2010/2011 DRAFT BUDGET MEETING (B3/4)



Part B

B 01/17/05/10-1 FENCING OF SITHEMBILE HALL R400 000-00 WARD 2 FUNDING (M3/1)



B 01/17/05/10-2 HOUSING FORUM (P3/17/1)



CORPORATE SERVICES

Part A

A 02/17/05/10-1 COUNCILLORS ATTENDANCE OF COUNCIL AND EXCO MEETINGS (C7/1)



Part B

B 02/17/05/10-1 INDABA: 8-11 APRIL 2010: ICC, DURBAN (M4/2)



B 02/17/05/10-2 TERMINATION OF THE VEHICLE TESTING FUNCTION AT THE ENDUMENI MUNICIPALITY TESTING STATION (T4/1)



B 02/17/05/10-3 PAIN T CENTRE, DUNDEE: REQUESTING PERMISSION FOR THE CLOSURE OF MCKENZIE STREET, DUNDEE (F3/1)



B 02/17/05/10-4 RENEWAL OF THE CONTRACT OF THE MAIN PHOTOCOPY MACHINE IN THE PRINTING SECTION (M5/2)



FINANCE

Part A

B 03/17/05/10-1 EXPRESSION OF CONCERN (C7/1)



TECHNICAL SERVICES

Part A

A 04/17/05/10-1 MONTHLY REPORT: MANAGER TECHNICAL SERVICES (R3/8)



A 04/17/05/10-2 SIBONGILE: REFUSE BAG COLLECTION SURVEY (S2/1)



A 04/17/05/10-3 MINUTES PERTAINING TO THE SITHEMBILE BULK WATER PROJECT (W1/1)



A 04/17/05/10-4 MINUTES PERTAINING TO THE SITHEMBILE BULK WATER PROJECT (W1/1)



A 04/17/05/10-5 LIQUOR LICENCING APPLICATION PROCEDURES (L5/1)



C 02/17/05/10-3 **APPLICATION TO UTILIZE VACANT BUILDING:
OLD TOILETS AT FREEDOM SQUARE, SIBONGILE**
(M3/13)

RESOLVED

AHL&E **THAT** this item be referred to the Council for consideration.



C 02/17/05/10-4 **SALE OF VACANT IMMOVABLE MUNICIPAL
PROPERTIES**
(L1/7)

RESOLVED

THAT

- AHL&E**
1. In response to the increased demand for vacant immovable properties from the general public, especially those in the middle income bracket, the vacant immovable properties as reflected on the schedule as attached to the agenda be sold by public tender in terms of the Council's approved Supply Chain Management Policy, prepared in accordance with Section 111 of the Municipal Finance Management Act No. 56/2003;
 2. It be recorded that the immovable properties as reflected on the schedule as annexed to the agenda of the meeting, is not needed to provide the minimum level of basic municipal services, as the said erven are all destined for public benefit as either residential, commercial, industrial or agricultural properties, and that they are all serviced, registered and suitable for freehold ownership;
 3. It be noted that the anticipated cost to the municipality in disposing of these immovable properties will be approximately R26 000.00, which amount includes the valuers fees for attending to the valuation, as well as the anticipated advertisement costs;
 4. It further be recorded that the Council is of the opinion that the development of these properties by private owners, and the returns Council will receive in the form of rates and service charges from these properties, will alleviate the burden on the Council to maintain the vacant land which at present does not return any revenue to Council;

5. The estimated fair current market sales values of the properties, as determined by the Council's valuers, Messrs H S K Simpson & Partners, as contained in their report dated 13 April 2010, which was enclosed with the agenda of the meeting, be noted, and that such estimated fair market related sales values be utilised as upset prices once the properties are advertised for sale by public bid process;
6. The sales of the above immovable properties be subject to the following conditions:
 - 6.1 In pursuance of Section 164(1)(c)(iii) of the Municipal Finance Management Act No 56 of 2003, payment of the purchase price for these properties shall only be by cash, bank guaranteed cheque, or deposit of the full purchase price with the transferring attorneys, before any transfer of ownership shall be commenced with;
 - 6.2 Any successful bidder shall be required to, immediately upon notification of the acceptance of the offer to purchase, sign the required sales agreement and pay a retaining fee of 10% of the purchase price so accepted, and thereafter be afforded a maximum of thirty (30) days within which to secure finance towards full payment of the purchase price;
 - 6.3 Should the successful bidder fail to arrange finance towards the payment of the full purchase price within the said thirty days, or for whatever reason fail to honour its commitments towards the payment of such purchase price within such thirty day period, the 10% retaining fee so paid be forfeited as a penalty for the breach of contract established in the Council's acceptance of the offer to purchase, the acceptance of the offer to purchase be cancelled, and the property then be offered to the next highest qualifying tenderer;
 - 6.4 Should the successful tenderer however secure finance for the purchase within the thirty-day period, the 10% retaining fee so paid then be set off against the final purchase price;

7. In compliance with Provincial Notice No. 1369 dated 17 August 2006, as issued by the Member of the Executive Committee (MEC) of Kwazulu-Natal responsible for Local Government, the following information be submitted to the MEC for his comments: (a) the nature of the immovable property to be disposed of; (b) the fair market related values 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;
8. In compliance with regulation 6(b) of the Municipal Asset Transfer Regulations, as promulgated in Government Gazette No. R.878 dated 22 August 2008, the matter be referred to the National and Provincial Treasury to solicit their views and recommendations thereon.



C 02/17/05/10-5 PROPOSED AMENDMENT TO THE DUNDEE TOWN PLANNING SCHEME IN PREPARATION: REZONING OF ERF 916, DUNDEE FROM “SPECIAL RESIDENTIAL” TO “GENERAL COMMERCIAL”
(T3/1/3/57)

RESOLVED

THAT

AHL&E

1. It be noted that the proposal of Mr A Sema to rezone Erf 916, Dundee from “Special Residential” to “General Commercial”, was duly advertised in accordance with the provisions of Section 47 *bis* of Ordinance No. 27 of 1949, and that letters thereon were served upon those residents in the immediate vicinity thereof;
2. The objections against the proposed amendment, as submitted by the relevant residents, be noted;
3. It be the considered opinion of the Council that, Bulwer Street forms part of a transition line between the commercial and mixed-use land uses which generally occur between Erf 916 and Victoria Street. These mixed-uses include vacant, light industrial zoned properties and general residential zoned properties. Thus, a commercial general dealer shop on the subject property located within this transitional zone would prove to be more beneficial than not, to the surrounding residential properties as well as the passing pedestrian traffic to and from Sibongile.

4. Hence, the Council resolves to proceed with the proposed amendment to the Dundee Town Planning Scheme in Preparation by the rezoning of Erf 916, Dundee from “Special Residential” to “General Commercial” without modification;
5. In terms of Section 47 *bis* (2) of the Town Planning Ordinance No. 27 of 1949, the Provincial Planning & Development Commission be advised accordingly.



C 02/17/05/10-6 REQUESTED AMENDMENT TO LEASE AGREEMENT FOR KWAKUNJE CULTURAL: MIRANDA MINERALS (M4/2)

RESOLVED

THAT

AHL&E

1. The application from Messrs Miranda Minerals, being the successful bidders for the lease of the Kwakunje Cultural Village at the Talana Museum with effect from 1 May 2010, for amendments to the lease agreement in respect of the cultural village as proposed, be approved;
2. The Lease Agreement in respect of the Cultural Village , as approved by Council at a meeting held on 22 February 2010, be amended by the substitution of clauses 9.1 and 14.5 thereof with the following:

“9.1 Any lawful instruction (lawful in being an instruction which falls within the ambit of the Law of the Republic of South Africa) given to the LESSEE by the Curator of the Museum, shall only be binding upon the LESSEE, provided the Curator of the Museum has reduced said instruction to writing in the form of a written request and said request has been duly signed by both the LESSEE as well as the Curator of the Museum.

Furthermore said written instruction will be reasonable and the LESSEE will be afforded the necessary time to adhere with such written instruction, should the LESSEE agree thereto.”

“14.5 Should the LESSEE wish to withdraw from this Agreement a penalty will be negotiated between the parties taking into account the rental paid per month (inclusive of any applicable increases thereto) at the time, by the LESSEE to the Curator of the Museum. This amount will be the monetary value of the rental which the Curator of the Museum would have received had the LESSEE not withdrawn from the Agreement. The agreed to penalty amount will be payable to the Talana Museum Board of Trustees to enable them to manage and continue with operations for this project. Should the LESSEE wish to withdraw from this agreement within the initial five year period, the payment of the agreement to penalty, will only be applicable to the initial five year period and will expressly exclude any period for which the initial lease may be renewed.

This clause is subject to the proviso that should the LESSEE withdraw from this agreement due to circumstances beyond its control or due to circumstances as a result of the direct or indirect actions of the Curator of the Museum and/or any of its employees, the LESSEE will then not be liable to pay the aforementioned penalty for withdrawing from this Agreement.”



C 02/17/05/10-7 **PROPOSED SALE OF VACANT PROPERTIES: ERVEN 4366 – 4608, EXTENSION 18, DUNDEE** **(L1/5/13)**

RESOLVED

THAT

AHL&E

1. The proposed sale of Erven 4366 – 4608, Dundee to developers for the building of housing for middle-income earners be approved in principle;
2. A viability study and estimate of the costs involved for the Council be undertaken before final approval for this project is given.



C 02/17/05/10-8 WORKER'S PARLIAMENT

[C8/3/2(a)]

RESOLVED

THAT

AMSD

1. The report submitted by the Assistant Manager: Social Development, in respect of the sitting of Provincial Worker's Parliament, be noted;
2. The bus route plan submitted, be approved.



C 02/17/05/10-9 PUBLIC VIEWING AREA: 2010 SOCCER WORLD CUP
(S6/1)

RESOLVED

MCS

THAT it be noted that this item was dealt with at a Special Exco meeting held on 11 May 2010.



C 02/17/05/10-10 TURN-AROUND STRATEGY (P3/17)

RESOLVED

MCS

THAT the report depicting the progress made to reach goals in the Turn-Around Strategy be submitted to the Council for consideration.



C 02/17/05/10-11 SALE OF ERF 5363, DUNDEE: SUNSET BEACH TRADING CC: APPLICATION FOR WAIVER OF PRE-EMPTIVE RIGHT {T3/6/3 (532-5364)}

RESOLVED

THAT

AHL&E

1. It be noted that the Council had by public tender sold to Sunset Beach Trading 260 CC, Erf 5363, Dundee for the tendered amount of R181 000,00 (one hundred and eighty one thousand rand) exclusive of 14 % VAT, on 30 April 2008, and that registration of transfer of ownership was registered in the Deeds Office on 17 July 2008;

2. It be noted that the Agreement of Sale, as concluded at the time of sale, contained in clause 24 a condition in terms of which the purchaser would not be permitted to sell the property so purchased to any third party other than the Council within a period of five (5) years if a building or buildings to the minimum value of R500 000, (five hundred thousand rand) had not been erected on the property;
3. It be noted that the now owner, being Sunset Beach Trading 260 CC, has to date not erected any buildings in value equal to or more that the required minimum value on the property known as Erf 5363, Dundee, and that application has now been made by Messrs Hellberg Thöle, on behalf of the owner, for the Council to waiver it's pre-emptive right on the property in terms of the said clause 24 of the sales agreement, citing financial hardship, and advising that they have found another buyer for the property whose intention it is to develop the property for medium density housing purposes as originally intended;
4. In view of the above, the application for the waiver by the Council of its pre-emptive right on Erf 5363, Dundee and the sale thereof by the current owners to another buyer, be approved;
5. The original awarding of the tender for the purchase of Erf 5362, Dundee to Sunset Beach Trading CC in 2008, of which the purchase price has not yet been paid and transfer not yet been taken, be cancelled, and the said property again be sold by public bid process in terms of the Council's Procurement Policy.



FINANCE

C 03/17/05/10-1 **TERMS OF REFERENCE: FINANCE PORTFOLIO COMMITTEE** **(C7/1)**

RESOLVED

CFO **THAT** the terms of reference for the Finance Portfolio Committee as depicted in the report, plus the following:-

14. MFMA Compliance
15. General Management, Administration and Oversight

be approved by the Council.



C 03/17/05/10-2 **ELECTRICITY SUPPLY AGREEMENTS: ESKOM** (E1/1)

RESOLVED

THAT

**MM
CFO**

1. Council approves the two agreements between Eskom and Endumeni;
2. The Municipal Manager be authorised to sign the agreements on behalf of Council.



C 03/17/05/10-3 **QUARTERLY REPORT ON WITHDRAWALS IN
TERMS OF THE MFMA** (L3/3/22; 1/4/1/30)

RESOLVED

CFO

THAT Council note the withdrawals for the quarter ended 31 March 2010 in terms of Section 11(4) of the Municipal Finance Management Act.



TECHNICAL SERVICES

C 04/17/05/10-1 TERMS OF REFERENCE: TECHNICAL SERVICES
PORTFOLIO COMMITTEE (C7/1)

RESOLVED

MTS THAT the terms of reference for the Technical Portfolio Committee as depicted in the report, be approved by the Council and the following services be included in the terms of reference:

10. Building Plans and Control
12. Refuse Removal;
13. Parks and Gardens: Maintenance;
14. Public Convenience.



C 05/17/05/10 ENDUMENI MUNICIPALITY: LOCAL GOVERNMENT
TURNAROUND STRATEGY (P3/17)

RESOLVED

THAT

- MTS
1. The Endumeni Municipality formally adopted a revised Turn-Around Strategy and Action Plan as per Department of Co-operative Governance and Traditional Affairs formal review of Endumeni Turnaround strategy as held on 13 April 2010 for the 2010/2011 fiscal year as appended to the minutes;
 2. The Municipal Manager provide an implementation progress report on the above revised strategy to the next meeting



