

STEVE TSHWETE LOCAL MUNICIPALITY

MINUTES

OF THE

SPECIAL COUNCIL

MEETING HELD ON

13 May 2024

11:10 am

S.M.



**MINUTES OF THE SPECIAL COUNCIL MEETING
HELD AT THE COUNCIL CHAMBER, MIDDELBURG ON
MONDAY, 13 MAY 2024 AT 11:10**

PRESENT

Cllr ST Mathunyane
Cllr CS Mashiloane
Cllr BC Shabangu
Ald MJ Sekgwele
Cllr GNB Mathibela
Cllr MC Mphego
Cllr LE Nkwana
Cllr MG Amigo
Cllr I Mahlangu
Cllr P V Malinga
Cllr ME Nyambi
Cllr WMM Phetla
Cllr LN Sibanda
Cllr JF Sithole
Cllr ML Shabangu
Cllr JM Shongwe
Cllr PE Williams
Cllr LJJ Zondo
Cllr SW Zulu
Cllr E M Bruiners
Cllr HG de Klerk
Ald J Dyason
Cllr AS Grobler
Cllr DD Klopper
Ald H F Niemann
Ald P Mobango
Ald SM Mogola
Cllr LS Qoka

Ald GHE Romijn
Cllr CM Soko
Ald A Struwig
Cllr DA Stuurman
Cllr AO Thabatha
Cllr DJ van der Merwe
Cllr EW Vermooten
Ald S Wait
Cllr N Bottoman
Cllr A Chego
Cllr OA Cossa
Cllr EP Mahlangu
Cllr P Malinga
Cllr MJ Mapheto
Cllr JN Mthombeni
Cllr NT Tshoane
Cllr ZJ Ngubeni
Cllr BC Mashabela
Cllr MP Mogola
Cllr NZO Motla
Cllr H Pilodia
Cllr J Segage
Cllr MC Skosana
Cllr J Mentz
Cllr CJ Wolmarans
Cllr TR Mpye

5.11

OFFICIALS

Mr SM Mnguni	(Municipal Manager)
Ms R Makgata	(Executive Director: Infrastructure Services)
Ms E Tshabalala	(Executive Director: Community Services)
Ms P Magutle	(Acting Executive Director: Corporate Services)
Mr G Mapheto	(Acting Executive Director: Financial Services)
Mr M Masilela	(Director: Governance & Council Support)
Ms B Mabena	(Acting Chief Administrative Officer)
Ms D Philip	(Administrative Officer Grade 2)
Mr S Malemone	(Senior Clerk)
Ms P Stuurman	(Clerk Grade 1)
Ms P Japal	(Clerk Grade 2)

Temporary absence from the meeting in terms of Section 45(2)(c)

Name of Cllr	1		
	From	To	Item
Cllr CS Mashiloane	12:16	12:19	Opening
Cllr P V Malinga	11:26	11:28	Opening
Cllr P V Malinga	12:30	Caucus	Opening
Cllr E M Bruiners	13:45	13:50	SC02/05/2024
Ald J Dyason	13:55	13:57	SC02/05/2024
Cllr AO Thabatha	13:52	13:55	SC02/05/2024
Cllr EP Mahlangu	11:23	11:23	Opening
Cllr MP Mogola	12:31	Caucus	Opening
Cllr J Segage	13:56	Caucus	SC02/05/2024
Cllr CJ Wolmarans	12:29	Caucus	Opening

Following the reading of the notice of the Special Council meeting in accordance with Rule 87 of the Rules of Order, the Director: Governance and Council Support informed the meeting that an amendment page amending part of the notice that stated that the Municipal Manager presides over the proceedings of this Special Council meeting has been sent to all Councillors, as a result, the Speaker will therefore preside over the proceedings this Special Council meeting in terms of Rule 23 of the Rules of Order and Section 37 of the Municipal Structures Act.

1. OPENING

The Speaker welcomed everyone present and declared the meeting opened.

Cllr WMM Phetla sought clarity as to why the meeting was not presided over by the Municipal Manager, as stipulated by Rule 86(9) of the Rules of Order; he also stated that Rule 23 of the Rules of Order requires the Speaker to preside over all Council meetings. The Speaker then asked the Director: Governance and Council Support to read Section 37 of the Municipal Structures Act, which will have precedence at this meeting.

SW

After discussions by various Councillors on who should preside and who convened the meeting. The Speaker requested that the Director: Governance and Council Support to read a document on the determination of the Special Council meeting, after the document was read the Speaker informed the meeting that he had given the administration the order to call this meeting.

Following some further deliberations on the matter, the Speaker requested the Director: Governance and Council Support to read Rule 19 of the Rules of Order.

At 11:38 the Chief Whip of Council requested a temporary adjournment and a 10 minutes caucus period which was granted by the Speaker.

The meeting resumed at 11:54.

Following lengthy discussions on the matter, the Speaker requested a caucus with the Chief Whips of the Political Parties (12:31-12:53).

After the caucus period the Speaker indicated that the ruling of the Chairperson was contested and according to Rules 19 of the Rules of Order if the ruling of the Chairperson is contested or called into question the debate is suspended.

The Speaker further indicated that the debate on who called this meeting has been suspended, and that any Councillor may request the Municipal Manager, in writing within five (5) days from a ruling made to obtain a clarity and the matter be referred to the Rules and Ethics Committee for consideration. The Speaker stated that the conclusion of the debate about who called the meeting does not stop the meeting from proceeding. The Speaker then directed that the meeting continues.

2. APPLICATIONS FOR LEAVE OF ABSENCE

2.1 Application for leave of absence in terms of Section 13 (1) of the Rules of Order

2.1.1 **THAT** note be taken that Cllr JC Haarhoff and Cllr PM Masilela (Executive Mayor) has applied for leave of absence due to other obligations and their application were approved.

2.2 Application for leave of absence in terms of Section 13 (2) of the Rules of Order

2.2.1 **THAT** note be taken that Ald J Skosana and Cllr MG Maseko has applied for leave of absence due to other obligations and their applications was approved.

3. DISCLOSURE OF INTEREST

None

SW

4. REPORT OF THE MUNICIPAL MANAGER

The Speaker indicated to the meeting that among the applications of Leave of Absence which was approved by the Speaker is that of the Executive Mayor, Cllr PM Masilela with it is the sick note and a letter, he further mentioned that the item for deliberations deals with the removal of the Executive Mayor, which Council must decide whether the deliberations continue in his absence or not, he further stated that due to the seriousness of the matter, he requested the Municipal Manager to advise Council.

The Municipal Manager advised Council that in terms of the Municipal Structures Act Section 55(1) it is his responsibility to advise political structures or office bearers of the decisions to be taken. He further mentioned that after the advice Council need to make a decision.

The Municipal Manager further advised that in terms 86(10) states that the Executive Mayor must be allowed the opportunity during the proceedings to -

- a) respond to every allegation made in the motion and during the proceedings,
- b) call witnesses and to cross-examine any witnesses called by the initiator;
- c) and submit documents and to examine any documents submitted by initiator.

He also advised that in terms of Rule 86(11) Council can still take a decision in the absence of the Executive Mayor, however, the Constitution of the Country should also be taken into consideration, Rule 1.5 on the interpretation of the Rules of Order indicates that whatever Council decides must be done having had due regard to the supremacy of the Constitution of the Republic of South Africa. He further advised that Section 33 of the Constitution which states that everyone has a right for administrative action that is lawful, reasonable and procedurally fair.

Additionally, the Municipal Manager advised that the Executive Mayor should be given a chance to present his case in accordance with the natural justice and audi alteram partem rules. Council may choose to proceed with Rule 86(11), but doing so would have violated the nation's constitution. In order to give the Executive Mayor a chance to present his case, the Municipal Manager suggested that the matter be placed on hold.

Consequently, the Speaker granted a 15 minutes caucus for parties to apply their minds in terms of the advice received from the Municipal Manager (14:04-14:33).

The meeting resumed as 14:33.

After the caucus session, and further debating, and some Councillors insisted that the meeting be chaired by the municipal manager.

S.M

With the permission from the Speaker the Municipal Manager informed the meeting that he is not the Chairperson of the meeting, he further stated that his advice still stands that the matter be held in abeyance until the Executive Mayor is granted an opportunity to state his case then the date and time will be determined in terms of the Municipal Structures Act.

The Municipal Manager then requested a caucus period between himself and the Speaker.

After the caucus period between the Municipal Manager and the Speaker Councillor CS Mashiloane requested that it be recorded that the Speaker received a letter from the MEC of Cooperative Governance and Traditional Affairs (COGTA) which nullify the meeting, based on that information Cllr CS Mashiloane stated that since the decision taken in this meeting will be binding therefore, "the other party" (ANC) distances itself from any decision that will be taken at this Special Council meeting.

Consequently, the Municipal Manager then read the following ruling of the Speaker regarding the matter on item SC02/05/2024 Council Arrangements: Motion of No Confidence in the Executive Mayor:

- "1. **THAT** the Speaker rules that the matter be postponed until the Speaker convene Council in terms of Section 87 of the Rules of Order.
2. **THAT** Council will be notified by the Speaker in terms of Section 4(4) of the Rules of Order."

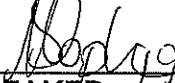
RULING OF THE SPEAKER

1. **THAT** the Speaker rules that the matter be postponed until the Speaker convene Council in terms of Section 87 of the Rules of Order.
2. **THAT** Council will be notified by the Speaker in terms of Section 4(4) of the Rules of Order.

5. **CLOSURE**

The meeting adjourned at 14:47

SIGNED AT MIDDELBURG ON 21/05/2024



SPEAKER