MINUTES OF AN SPECIAL COUNCIL MEETING OF THE KOUGA MUNICIPALITY HELD AT THE KOUGA COUNCIL CHAMBER (JEFFREYS BAY UNIT) ON FRIDAY, 20 APRIL 2018 AT 15:00

PRESENT: Councillors	H Hendricks	
	H Bornman	
	B Williams	
	D Benson	
	F Baxter	
	FJ Campher	
	BF Rheeder	(Alderman)
	DM Nkomo	
	L Vorster	
	FJ Louw	
	B Carstens	
	NS Botha	
	B Dhludhlu	
	WPD Gertenbach	
	W Coenraad	
	M Dayimani	
	VA Camealio-Benjamin	
	TN Meleni	
	P Nkwalase	
	S Jujwana	
	M Peters	
	C Mandeka	
	C Matroos	
	Z Mayoni	
	E Februarie	
Officials & Municipal Manager	C du Plessis	(Municipal Manager)
	L Opperman	(Manager: Legal Services)
	H Hammes	(Acting: Manager: Corp Serv)
	M Jantjies	(Committee Services)
	B Klopper	(Committee Services - Scribe)

1. **NOTICE OF MEETING**

The Speaker read the notice convening the meeting and requested to add to the Notice of the meeting, that although the 48hr notice calling for a Special Council meeting was not adhered to in terms of the Rules of Order, Councillors were communicated with and agreed unanimously to continue with the Special Council meeting at such short notice.

Cllr Dayimani requested clarity on the proceeding regarding the Council decision taken on 16 April 2018 in the appointment of an Acting Executive Mayor and Acting Speaker.

The Speaker advised the that the decision taken on 16 April 2018 was dependant on the Executive Mayor who was still active in that position and the moment the Executive Mayor deceased the Acting was no longer and the position became vacant, as there can only be an Acting position if there is a Mayor. There can only be an Acting Executive Mayor if there is an Executive Mayor. Once the Mayor deceased the position became vacant therefore there is no Executive Mayor, there are no Portfolio Cllrs and therefore he immediately became the Speaker as he never resigned as the Speaker for the Acting Position.

Cllr Camealio-Benjamin state she sent to Case Law and the Speaker should have resigned as Speaker and the Council resolution taken on 16 April 2018 should have been by secret ballot and the decision taken was wrong as the Executive Mayor and Speaker get sworn in their positions and therefore cannot be the Speaker and Mayor at the same time. The proceeding of today are correct by secret ballot and stated that it was about principle and that Council is to ensure that the correct procedures are followed.

The Speaker advised that a legal opinion was sought and stated that if a position is vacant, it is done by secret ballot but it does not apply for Acting positions, no secret ballot is required.

Cllr Camealio-Benjamin stated that the Speaker was Acting Executive Mayor and Speaker and legally speaking, should have resigned from the position.

The Speaker stated that normally there is a Duty Mayor and becomes the Acting Mayor and since there is no Deputy Mayor, Kouga is setting the trend and other Municipalities will follow suit but whether right or wrong and if a mistake was made, it should be rectified.

The Speaker officially advised that the Executive Mayor, Ms Elza van Lingen had passed on 19 April 2018 and stated that it was a sad loss to the DA Party and to the Council and that a 10day morning period is be recognised ending 29 April 2018. A moment a silence was requested.

2. **OPENING AND WELCOME**

The Speaker welcomed all Councillors, a special welcome to Cllr Februarie and officials and asked Alderman Rheeder to open the proceedings with prayer.

3. **LEAVE OF ABSENCE**

Cllr A Mabukane	-	With Leave of absence
VS Vumazonke	-	With Leave of absence

Cllr Camealio-Benjamin tendered an apology for the Ordinary Council meeting to be held on 25 April 2018 due prior commitments.

4. **ACKNOWLEDGEMENTS, CONDOLENCES & CONGRATULATIONS**

Cllr Dayimani, on behalf of the ANC, extended sincere condolences to the DA Party and family and advised that the ANC is a caring organisation and must be seen as such.

5. **MATTERS DEALT WITH IN TERMS OF DELEGATED AUTHORITY BY THE EXECUTIVE MAYOR**

(The reports by the Executive Mayor, in terms of the provisions of Section 63 of the Local Government Municipal Systems Act, 32 of 2000, on matters dealt with by the Executive Mayor in terms of delegated authority as detailed in the Minutes to be noted).

6. **CORPORATE SERVICES**

18/04/CORP2 RESIGNATION OF SPEAKER

The Letter of Resignation of the Speaker was tabled and read by the Speaker whereafter the Chair was handed to the Municipal Manager to preside over the meeting. Letter given to the Municipal Manager.

Cllr Camealio-Benjamin requested clarity on whether the IEC was to preside over the election process and whether the vacancy had been registered with the IEC.

The Municipal Manager advised that the IEC had been informed and was awaiting the official death certificate of the Executive Mayor.

The Municipal Manager referred to the Municipal Structures Act in terms of Section 36 regarding the election of Speakers and that the Municipal Manger will to preside over the election process as stipulated in Schedule 3 of the Act. Should the Municipal Manager not be available, the IEC will preside over the process. Nominations will be called for on the nomination form and voting will be by secret ballot and should there only be one nominee, no voting will take place. Both Chief Whips will then be called to verify the results.

The Municipal Manager called for nominations for the election of the Speaker.

The following 2 nominations were received:-

Cllr H Bornman
Nominated by: Cllr D Benson
Seconded by: Cllr F Baxter

Cllr Camealio-Benjamin
Nominated by: Cllr Dayimani
Seconded by: Cllr Mayoni

A 5min break was given.

Cllr Dayimani advised that the ANC caucus would like to withdraw the nomination, which was verified that the correct nomination form was being withdrawn, for the election of a Speaker.

Therefore, in the absence of any other nominees, Cllr H Bornman was elected as the Speaker.

Resolved (20 April 2018)

1. That Councillor H Bornman be declared Speaker of the Kouga Municipality for a term consistent with Section 38 of Act 117 of 1998 (as amended).

Cllr H Bornman took over the Chair.

18/04/CORP4 **ELECTION OF EXECUTIVE MAYOR**

Cllr Dayimani requested that it be noted as to why the vacant position of the Executive Mayor had not officially been declared and accepted by the IEC.

The Speaker advised that there is a difference between a vacancy as a Councillor and a vacancy as a Mayor.

The Speaker called for nominations for the election for the Executive Mayor.

The following 2 nominations were received:-

Cllr H Hendricks
Nominated by: Cllr D Benson
Seconded by: Cllr F Baxter

Cllr Camealio-Benjamin
Nominated by: Cllr Dayimani
Seconded by: Cllr Mayoni

The voting process was done by Secret Ballot

Once all ballot papers were received by secret ballot, both Chief were called to witness the counting process and were requested to verify correctness of the results.

Official Results for the Election of the Executive Mayor:-

Cllr H Hendricks	=	16
Cllr V Camealio-Benjamin	=	10

Cllr H Hendricks was declared as the Executive Mayor.

Resolved (20 April 2018)

1. That Councillor H Hendricks be declared the Executive Mayor of the Kouga Municipality for a term consistent with Section 46 of Act 117 of 1998.

The newly elected Speaker and Executive Mayor were requested to undertake the Oath of Office:-

OATH OF OFFICE

*I, **Hattingh Bornman** do hereby swear that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other laws of the Republic, and I solemnly promise to perform my functions as **The Speaker** of the Council of Kouga Municipality to the best of my ability – SO HELP ME GOD.*

OATH OF OFFICE

*I, **Horatio Hendricks** do hereby swear that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other laws of the Republic, and I solemnly promise to perform my functions as **The Executive Mayor** of the Council of Kouga Municipality to the best of my ability – SO HELP ME GOD.*

The meeting closed at 16:20

24/4/2018

H BORNMAN **DATE**
SPEAKER