

**MINUTES OF A VIRTUAL SPECIAL COUNCIL MEETING OF THE KOUGA MUNICIPALITY  
HELD ON THURSDAY, 28 JANUARY 2021 AT 10:00**

**PRESENT: Councillors**

H Bornman	(Speaker)
H Hendricks	(Executive Mayor)
B Williams	
F Campher	
F Baxter	
D Benson	
B Rheeder	
B Dhludhlu	
L Vorster	
R Jantjies	
T Jantjies	
WPD Gertenbach	
C August	
M Biko	
M van Niekerk	
W Coenraad	
J Alexander	
M Dayimani	
E Februarie	
V Vumazonke	
S Jujwana	
S Makasi	
M Peters	
P Oliphant	
J Mayoni	
P Nkwalase	
C Matroos	
R Dennis	
A Mabukane	

**Officials**

F Mabusela	(Acting Municipal Manager)
R Lorgat	(Chief Financial Officer)
E Oosthuizen	(Acting Director: Infrastructure & Eng)
K Moodley	(Director: Corporate Services) (left at 12:00)
N Machelesi	(Director: Community Services)
D De Jager	(Manager: HR & Acting: COO)
L Opperman	(Manager: Legal Services)
L Randall	(Media Liaison Officer)
M Basson	(Media Liaison Officer)
B de Groot	(Senior Admin Officer: Committee)

1. **NOTICE OF MEETING**

The Speaker read the notice convening the meeting and advised that in terms of the amended Directions on Municipal Operations and Governance and in terms of Section 27(2) of the Disaster Management Act, 2002, that a virtual Ordinary Council Meeting will be held using the zoom platform.

2. **OPENING AND WELCOME**

The Speaker welcomed the Executive Mayor, all Councillors & officials present and requested Cllr A Mabukane to open the meeting with prayer.

The Speaker advised that the order of business was discussed with both political parties and it was agreed that each party will be allocated 15 minutes for points of clarity on item 21/01/F1 and 10 minutes for the remaining 2 items. The Speaker urged that all Councillors only discuss matters on the agenda.

3. **WITH LEAVE OF ABSENCE**

C Du Plessis (Municipal Manager)

4. **WITHOUT LEAVE OF ABSENCE**

None

5. **PRESENTATION**

None

6. **ACKNOWLEDGEMENTS, CONDOLENCES & CONGRATULATIONS**

Birthday wishes were conveyed to: -

Cllr P Nkwalase – 15 January 2021

Cllr B Dhludhlu – 23 February 2021

Sincere condolences were extended to Cllr Vumazonke who had lost 4 family members due to Covid-19.

Cllr Dhludhlu conveyed support to the Sea Vista residents who were left destitute after the recent fires, fortunately, no lives were lost. Condolences were expressed to the family of the DA National Speaker who had passed away.

7. **STATEMENTS OR COMMUNICATION BY THE SPEAKER**

None

8. **STATEMENTS OR COMMUNICATION BY THE EXECUTIVE MAYOR**

The Executive Mayor stated that during 2020, Covid-19 caused disruptions for all Kouga residents especially the business sector. The operations of the Municipality necessitated cost-cutting measures on the capital expenditure and going forward, recovery plans by all Directorates need to be implemented to expedite expenditure which will be monitored weekly.

In terms of the Mid-year Budget Performance Report, some areas indicated performance and other areas needed improvement. When the Adjustment Budget is dealt with, funds not spent will be forfeited and be reallocated where needed.

The Executive Mayor stated that the recent veld fires in Sea Vista (St Francis Bay) caused a lot of damage in respect of homes and left affected families destitute. The surrounding dam levels are low and the prolonged drought in the areas makes the situation difficult to control the threat of veld fires.

The Executive Mayor further reported that the Kouga Municipality is financially sound and he extended well wishes for 2021 to all Councillors and municipal officials.

9. **DECLARATION OF INTEREST**

None

10. **STATUTORY MATTERS**

11. **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).*

12. **REPORTS BY THE PORTFOLIO CHAIRPERSONS**

12.1 **REPORT BY THE PORTFOLIO CHAIRPERSON: FINANCE**

21/01/F1 **MID-YEAR FINANCIAL REPORT FOR THE PERIOD JULY TO DECEMBER 2020 AND ASSESSMENT OF THE MUNICIPALITY'S FINANCIAL POSITION AS AT 31 DECEMBER 2020 (2020/21 FINANCIAL YEAR)**

The Executive Mayor tabled the report.

Cllr B Williams referred to the cost coverage for the past 6 months. He indicated that the collection rate is 91.33% which is more than the budgeted value of 85%. He further stated that cognisance is taken that the 2020 festive season did not have a positive impact on local

businesses and the tourism industry, which affects revenue income due to overdue consumer accounts.

He further mentioned that the next 6 months could also pose difficulty for local businesses due to Covid-19 which will have an impact on capital expenditure and advised that tighter financial controls need to be in place.

Cllr B Williams reported on the financial performance and referred to the operating expenditure which had resulted in an operating surplus of R107m. He further mentioned that the capital expenditure constituted 19.4% of the Adjusted Capital Budget and overdue consumer debt increased by 19,7% since June 2020.

Cllr B Williams advised that an amount of R21m had been paid on the Eskom account, PAYE of R4m with R8m outstanding to other creditors and indicated that the matter will be addressed in the next Finance Portfolio Committee meeting. A full report on under-expenditure on grants will be submitted to the I&E PC meeting in February 2021 as the grants received cannot be forfeited.

Cllr W Gertenbach raised concern regarding the capital expenditure which was only 19.4% but mentioned that with the appointment of contractors for the commencement of projects, the expenditure on projects will now take place. He further pointed out that the increase in consumer debt of R33m raised concern which needs to be addressed. The staff related costs increased and is 20% over the budgeted amount, which is concerning, and this must urgently be addressed to reduce costs. Repairs and maintenance expenditure reflect 47% which is excellent. Cllr W Gertenbach commended the Administration on the municipality's investment portfolio.

Cllr E Februarie stated with concern that only selective sections of the MFMA have been applied in the report. He referred to the Executive Summary and pointed out that it indicates an assessment and overview of the financial performance of the municipality's operating and capital budget performance as of December 2020 which therefore assists the Executive Mayor in his oversight role. Previously it was claimed that due to lack of reporting, proper oversight could not be done and based on this, a senior official was suspended and yet monthly reports are tabled to the Council for budget implementation. He further stated that based on the above, the Executive Mayor failed to exercise proper oversight.

Cllr E Februarie referred to the increase in the investment portfolio of 6.5% and enquired: -

- what amount is for conditional grants?
- what amount is raised through revenue?

Cllr E Februarie stated that when the Adjustments Budget was approved, Council was cautioned against realistically anticipated revenue collection as adjustments had already been made to the budget.

Cllr E Februarie enquired about cost cutting measures in place by Council to prevent having to approach the MEC regarding the Municipality's financial position as there is no preventative plan implemented by the CFO or Municipal Manager. He further stated that staff-related costs increased which is concerning and needs to be addressed to reduce these costs.

Cllr E Februarie stated that a criminal case against the Municipality has been opened in respect of municipal officials not visiting areas to determine which residents qualify for Equitable Share and to ensure that beneficiaries are registered.

Cllr E Februarie pointed out that no money has been spent on the intended biometric system and officials working from home during the Covid-19 period, have not been provided with proper tools of trade to perform the required functions. He further raised concern regarding the allocation of grants and the delay in the upgrading of gravel roads in respect of the procurement plan and stated that the Executive Mayor had been untruthful and failed to exercise his oversight role by giving proper direction in spending the MIG funding.

Cllr P Oliphant stated that the ANC component had previously requested that the upgrading of roads be Ward based by indicating the locality and also inclusion of the km's that will be upgraded, which is not reflected in the report. He also referred to the upgrading of sports facilities which are not specified and not reflected in the report and requested a breakdown of expenditure in all areas for the upgrading of sports facilities. He further mentioned that under-expenditure had previously occurred resulting in poor service delivery and stated that consequence management must be fairly applied and implemented.

Cllr Dayimani raised concern in respect of: -

- the under-expenditure on capital projects and enquired whether all allocated funds will be spent on the projects by the end of the current financial year in terms of the procurement plan.
- disputes submitted by ratepayers regarding the special rating areas and requested that a detailed report be made available.
- The outstanding balance of INEP grants – whether the remainder may be allocated for electrification in Wards.

The CFO advised that the breakdown indicates the total investments in terms of conditional grants and reflects reserves and cost-cutting is only required when a municipality has adopted an unfunded budget. A funded budget has been adopted by Kouga Municipality and is

therefore not applicable. Although cost-cutting measures have been implemented and spending is done in line with the current budget, the excess of reserves over commitments is in respect of the Equitable share allocation received but not yet fully spent. He further advised that the funds have already been committed towards expenditure in the operating budget.

The CFO stated that in terms of the wage increase which reflects 47%, which is the total of actual expenditure to date and needs to be in line with the budgeted amount of 38%. Regarding other expenditure which is 41%, Depreciation & Asset impairment at 34% and contracted services at 39% which is below the required expenditure as at end of December 2020 and has therefore increased the employee-related costs.

The CFO further advised that only selected sections of the MFMA were extracted in terms of legal requirements in respect of reports to comply with Schedule C of the Municipal Budget and Reporting Regulations. He further advised that the special rating areas levy was contested but the majority affected parties agreed to the special rating levy which has been implemented and residents have been informed accordingly.

The CFO stated that the annual Equitable Share processes are in place but due to Covid-19, visits to areas could not take place. The EQS register is maintained by the Municipality and those who meet the criteria are to register with the relevant department to receive assistance.

The Executive Mayor stated that the claim of being untruthful and misleading the Council is unfounded regarding his oversight role responsibilities. The intended suspension of the Director was based on two issues namely the R10,4m grant forfeited and the failure in procuring the upgrading of gravel roads, therefore, the claim was unsubstantiated and not due to a lack of oversight. He further stated that capital expenditure needs to be cautious due to Covid-19 as service delivery is a priority and mentioned that National Government requested municipalities to re-prioritize and re-allocate funding to support Covid-19 relief efforts as revenue generated could be compromised due to non-payment of accounts by ratepayers.

Cllr P Oliphant requested that a report on the breakdown of the anticipated expenditure on the sports fields as well as a breakdown of the upgrading of gravel roads be submitted to the respective PC meetings.

Cllr W Gertenbach stated that Ward Councillors receive a monthly list of EQS beneficiaries, and it remains the responsibility of the Ward Councillors to indicate omissions of any community member and advise the relevant department at the municipality for inclusion.

Cllr M Dayimani stated that the report is a reflection on the performance and assessment of the municipality and to be compliant he understands that the report needs to be submitted to the National & Provincial Treasury. Although the report is for noting, oversight needs to be maintained and he urged that Council ensures that no funds will be forfeited and returned to National Treasury due to under-expenditure.

Cllr M Dayimani further stated that the Executive Mayor is correct in stating that National Government requested municipalities to re-prioritize and re-allocate capital funding but since October 2020, several Adjustment Budgets have been done due to Covid-19 but this cannot affect other expenditure as the procurement plan was revised. Viewing the figures in the assessment report does not reflect a positive oversight role by the administration and he further stated that the DA lobbied to appoint personal acquaintances in positions at the Municipality without following the proper recruitment process which has resulted in increased staff-related costs.

Cllr B Dhludhlu raised a Point of Order based on relevance in terms of Rule 32.1 by misleading Council by stating that the DA is appointing friends and requested that the statement made by Cllr M Dayimani regarding the appointment of officials with the involvement of the Executive Mayor, be withdrawn.

Cllr M Dayimani stated that the matter had relevance and the statement made will not be withdrawn.

The Executive Mayor raised a Point of Order on relevance and stated that the appointment of Mr E Goliath was made by the Municipality and not by the Executive Mayor and followed due recruitment processes. He further stated that the funding for gravel roads was re-allocated as approved at Council in January 2021.

Cllr Februarie requested a 5 minute caucus to discuss the matter, which was not granted as the Speaker stated that the recommendations were only for noting purposes.

### **Resolved (28 January 2021)**

1. That the Municipal Manager's report on the Mid-year Budget and Performance Assessment of the municipality, in accordance with Section 72(1)(a) of the MFMA, be noted.
2. That the Executive Mayor's report on the implementation of the budget and the financial state of affairs of the municipality, in accordance with Sections 52(d), 54(1)(f) and 72 of the MFMA, be noted.
3. That an Adjustments Budget, based on the realistically anticipated revenues, in line with section 18 of the MFMA, be tabled by the Executive Mayor to Council.

4. That the 2020/21 Adjustments Budget be tabled by the Executive Mayor to Council, not later than 28 February 2021.
5. That the Mid-year report accordingly be submitted to National Treasury and Provincial Treasury, in line with Section 72(1) (b) of the MFMA.
6. That it be noted that the ANC Component was not in agreement with the recommendations as contemplated above.

21/01/F2

**BUDGET AND TREASURY: WITHDRAWALS FROM MUNICIPAL BANK  
ACCOUNT FOR THE QUARTER ENDED 31 DECEMBER 2020**

Cllr B Williams stated that the withdrawals addressed the motor registration transaction fees which needs to be paid over in respect of money received on behalf of the municipality as well as monies to be transferred to the investment call accounts.

Cllr E Februarie sought clarity on the wasteful expenditure in respect of the court case and questioned whether these services had been paid as it is not reflected.

Cllr B Williams stated that the report addressed the withdrawals and that the question raised by Cllr E Februarie had no relevance to the report.

The Speaker also confirmed that the item deals with withdrawals and not payments.

Council resolved by unanimous decision.

**Resolved (28 January 2021)**

1. That the withdrawals that were made in terms of section 11(1) (b) to (j) of the MFMA for the quarter ended 31 December 2020 be noted.
2. That the report be submitted to the Provincial Treasury and Auditor-General as determined by section 11(4) (b) of the MFMA.



## 12.2 REPORTS BY THE PORTFOLIO CHAIRPERSON: PLANNING & DEVELOPMENT

### 21/01/PD1 COUNCIL IN-PRINCIPLE APPROVAL & AUTHORIZATION FOR PUBLIC PARTICIPATION PROCESS ON UNSOLICITED BID: LONG TERM (30 YEAR) LEASE OF ERF 353, HUMANSDORP (OLD CARAVAN PARK) TO AFRI-CORP INTERNATIONAL PROPERTIES

Alderman B Rheeder presented the report and requested that the recommendations be supported in principle for the long-term lease of Erf 353 – Humansdorp and requested Council's approval to advertise the Council's intention.

Cllr E Februarie raised concern in respect of the market-related value of the land, long-term lease to a single developer and proposed that Council consider the intention to subdivide and rezone Erf 353 which could be utilised for multi-purpose development. He further stated that the ANC Component has requested a comprehensive land audit in respect of land sales, disposal, and alienation of land to determine which council-owned land is available for possible development and to date no land audit has been forthcoming.

Cllr M Dayimani stated that the report failed to provide full details of the tender process and questioned why the sale of land was an unsolicited bid and not a competitive bid. He further cautioned Council not to follow the route of the unsolicited bidding process.

Cllr R Dennis raised the following: -

- the concern with regards to an unsolicited bid.
- enquired whether it was determined that the Municipality did not need the land.
- that a successful bidder had already been associated with the bid.
- interaction with National Treasury to advise of the Council's intention.
- the venue of briefing session which changed at short notice without properly informing the community.

Cllr P Oliphant stated that the land in question is a large piece of land which includes the HD Stadium and further stated that the content of the report fails to give proper guidance and correct procurement processes followed and proposed that the item be withdrawn.

Cllr W Gertenbach referred to the content of the report as it was clear that the processes followed were in line with the Council resolution to proceed with a competitive bidding process for a mixed land usage development. All details are contained in the report and as indicated, no bidders were responsive, and it was recommended to readvertise the tender. He further stated that it resulted in an unsolicited bid as a proposal for a long-term lease was received which is to be considered. Currently no income for the Municipality is being generated and with a development proposal, an income can be generated.

Cllr B Dhludhlu mentioned that the development would form part of the Humansdorp CBD area which can revitalise the area by making a huge difference in Humansdorp. He further proposed that the recommendation be approved, and correct procedures are followed.

The Executive Mayor stated that initially it was not an unsolicited bid as interest was shown. The successful developer will be liable for augmentation fees as well as bulk service fees. The area does not include the HD stadium and it has been confirmed that the land is not required by the Municipality.

The Director: Planning, Development & Tourism advised that a site development plan will be received from the bidder and the land usage will be determined. A Section 14 process has been followed which was during 2019 and it was already established at that stage that the land would not be required for any municipal services. Furthermore, the proposal is for a lease period and not to transfer ownership of the land. A market-related value will be determined before acceptance of the long-term lease.

Cllr E Februarie raised concern that the content of the report does not contain all the information to make an informed decision namely land usage (zoning), market-related value, the content of requested lease on the property and therefore he is not in support of the recommendations.

Cllr P Oliphant pointed out that in terms of legislation that the norm of leasing property from the municipality is 9 years and 11 months but the recommendation states 30 years with the option to renew.

The Executive Mayor stated that the information made known by Cllr R Dennis in the meeting was regarded confidential in terms of the bidding process and requested a caucus to discuss the matter.

Caucus break of 15mins

The Executive Mayor advised that Cllr R Dennis had access to confidential and privileged information regarding the tender process and site verifications and requested that the matter be referred to the Office of the Speaker for further investigation.

Cllr E Februarie questioned as to what information was privileged and confidential in respect of the statement/comment made by Cllr R Dennis.

The Speaker stated that all information regarding a tender process is confidential and the matter will be investigated by his office.

Cllr M Dayimani stated that the ANC Component was not in support of the recommendations and proposed that a competitive bidding process is followed and that all details be made available.

A Division of Vote was called:

H Hendricks	in favour
B Williams	in favour
F Baxter	in favour
F Campher	in favour
D Benson	in favour
W Gertenbach	in favour
W Coenraad	in favour
L Vorster	in favour
B Rheeder	in favour
T Jantjes	in favour
R Jantjes	in favour
C August	in favour
M Biko	in favour
M van Niekerk	in favour
J Alexander	in favour
H Bornman	in favour
B Dhludhlu	in favour
C Matroos	not in favour
M Dayimani	not in favour
E Februarie	not in favour
Z Mayoni	not in favour
V Vumazonke	not in favour
A Mabukane	not in favour
M Peters	not in favour
C Makasi	not in favour
P Oliphant	not in favour
R Dennis	not in favour

That it be noted that Cllr S Jujwana and Cllr P Nkwalase were not present at the time of the voting procedure.

In favour of the recommendations	=	17
Not in favour of the recommendations	=	10

**Resolved (28 January 2021)**

1. That Council grants in-principle approval that erf 353, Humansdorp may be leased for a long- term lease period not exceeding 30 years with an option for renewal.
2. That Council authorizes the Accounting Officer to advertise the intended long-term lease to Afri-Corp International Developers, allowing for the public to make comments, raise objections or submit counter bids within a period of 30 days from date of advertising.

3. That a fair market lease valuation be determined through a qualified and registered valuer.

Proposed: B Rheeder

Seconded: B Dhludhlu

13. **CLOSURE**

The Speaker thanked all present for their valuable input.

The meeting closed at 12:30



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**H. BORNMAN**  
**SPEAKER**

26 February 2021

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**DATE**

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