

**MINUTES OF A VIRTUAL ORDINARY COUNCIL MEETING OF KOUGA  
MUNICIPALITY HELD ON FRIDAY, 28 JUNE 2024 AT 10:00 AM**

**PRESENT: Councillors**

|                 |                          |
|-----------------|--------------------------|
| Ald B Williams  | (Speaker)                |
| T Jantjes       | (Acting Executive Mayor) |
| Ald D Benson    |                          |
| B Dhludhlu      |                          |
| W Gertenbach    |                          |
| H Murray        |                          |
| R Foley         |                          |
| F Heystek       |                          |
| S Ruth          |                          |
| J Alexander     |                          |
| C August        |                          |
| M Nicholls      |                          |
| M van Niekerk   |                          |
| N Ntengwane     |                          |
| L Maree         |                          |
| M Valgee        |                          |
| G Stuurman      |                          |
| W van der Linde |                          |
| K Ndzalani      |                          |
| N Ntshota       |                          |
| V Zana          |                          |
| E Mbuqu         |                          |
| M Mbandana      |                          |
| M Yali          |                          |
| P Oliphant      |                          |
| L Nkilishane    |                          |

**Officials &  
Municipal Manager**

|              |  |
|--------------|--|
| C du Plessis | (Municipal Manager)                            |
| D de Jager   | (Deputy Municipal Manager)                     |
| R Lorgat     | (CFO)  |
| C Venter     | (Acting Director: Community Services)          |
| L Opperman   | (Manager: Legal Services)                      |
| C de Kock    | (Director: Civil & Water Services)             |
| L Ramakuwela | (Acting Director: Planning & Development)      |
| T Madatt     | (Director: Electro-Mechanical Services)        |
| K Minnaar    | (Chief of Staff)                               |
| M Rossouw    | (Manager: Administration & Auxiliary Services) |
| C Prinsloo   | (Legal Officer: Office of the Speaker)         |
| E Goliath    | (Manager: Public Participation)                |
| M Basson     | (Manager: Media & Communication)               |
| M Julius     | (Senior Admin Officer: Committees)             |
| N Mazibuko   | (Committee Clerk/Scribe)                       |

1. **NOTICE OF MEETING**

The Speaker read the notice convening the meeting in terms of Section 19 of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000) that an Ordinary Council Meeting will be held virtually on 28 June 2024 at 10:00 a.m.

2. **OPENING AND WELCOME**

The Speaker welcomed everyone present to the meeting and requested Cllr Dhludhlu to open the meeting in prayer.

3. **ABSENT WITH LEAVE**

H Bornman (Executive Mayor)  
W Petersen  
B Human  
N Machelesi (Director: Community Services)

4. **ABSENT WITHOUT LEAVE**

V Gunuza

5. **PRESENTATIONS**

None.

6. **ACKNOWLEDGEMENTS, CONDOLENCES & CONGRATULATIONS**

Cllr Oliphant requested an opportunity to table a Motion of Exigency.

The Speaker granted that the Motion of Exigency be presented at the end of the Open agenda discussions.

Ald Benson extended birthday wishes to the following Councillors:

22 May – Cllr Foley  
26 May – Cllr August  
14 June – Cllr Ntshota  
25 June – Cllr van Niekerk and Valgee

Cllr Alexander congratulated Jaco Smit who would be participating in the Paris 2024 Paralympic Games and hoped that Council would honour Mr Smit upon his return.

Cllr Zana extended his condolences to the family of Kobus, an employee who worked at the Kouga dam as well as the two South African soldiers who lost their lives in the Democratic Republic of Congo (DRC) due to a mortar attack by the M23 rebels.

He further congratulated and wished the Proteas well for their upcoming T20 finals game as well as Bafana Bafana for playing well against Nigeria on 7 June and their victory against Zimbabwe.

He also congratulated Ms Asanda Tebekana, a former employee of Kouga Local Municipality, who was elected as a member of the Eastern Cape Provincial Legislature and wished her well on her new endeavour.

Cllr Foley expressed his condolences to the family of Alderman Ben Rheeder, who served as an employee of Kouga Local Municipality for over 20 years.

## 7. **STATEMENTS OR COMMUNICATIONS BY THE SPEAKER**

Good morning Honourable Mayor, Councillors, Municipal Manager and officials. Welcome to the June Council meeting and I am sure we will have a productive engagement this morning.

The Office of the Speaker has been involved in trying to solve the problems that, in particular, our Ward Councillors are experiencing with liquor license applications.

It has been discovered that some applicants work through the Ward Councillors as legislation dictates, while others are submitting applications to the administration and possibly even directly to the Liquor Board.

It is also clear that the Eastern Cape Liquor Act of 2003 is not being adhered to in that all applications have to be submitted to Council and this is not taking place. We also cannot work with the application form sent to us by the Liquor Board as the new regulation has yet to be promulgated, adding to the confusion that currently exists.

It is appreciated that most Ward Councillors attended the meeting this week with the Liquor Board and a communication will go out from my office requesting all Wards to submit a list to my office of all establishments in their Ward that are selling liquor.

We can then compare this to the establishments that have been granted licenses to trade by the Liquor Board to determine who is trading legally and illegally and whether due process has been followed.

I wish to thank all political parties who contested the May 2024 elections and that everything went peacefully in Kouga and voters could exercise their democratic right to vote in a conducive environment.

This is a sign of a maturing democracy within the borders of Kouga Municipality and we only experienced minor mishaps at some voting stations that were resolved as voters congregated on their Voting Districts.

As we enter the new financial year, our Public Participation Unit will continue to support engagements with communities so we can improve upon our commitment to bringing government to the people of Kouga Municipality.

I thank you all.

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

None.

9. **DISCLOSURE OF INTEREST**

None.

10. **STATUTORY MATTERS**

None.

11. **MINUTES OF PREVIOUS MAYORAL COMMITTEE MEETING FOR INFORMATION**

11.1 **MINUTES OF THE MAYORAL COMMITTEE MEETING HELD ON 16 APRIL 2024**

**Resolved (28 June 2024)**

1. That the minutes of the Mayoral Committee meeting held on 16 April 2024 be noted.

12. **CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING**

12.1 **MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON 10 MAY 2024**

**Resolved (28 June 2024)**

1. That the minutes of the Special Council meeting held on 10 May 2024 be approved.

Proposed: Cllr W Gertenbach

Seconded: Cllr S Ruth

12.2 **MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 31 MAY 2024**

Cllr Gertenbach referred to page 35 and requested that an amendment be made to the spelling of St Francis Bay.

**Resolved (28 June 2024)**

1. That the minutes of the Ordinary Council meeting held on 31 May 2024 be approved.

Proposed: Cllr W Gertenbach

Seconded: Cllr M van Niekerk

13. **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).*

14. **REPORTS OF COMMITTEES OF COUNCIL**

14.1 **REPORT BACK: SARAH BAARTMAN DISTRICT MUNICIPALITY REPRESENTATIVE**

None.

14.2 **KOUGA AUDIT COMMITTEE**

None.

14.3 **RULES & ETHICS COMMITTEE**

None.

14.4 **MUNICIPAL PUBLIC ACCOUNTS COMMITTEE**

**24/06/MPAC1 MINUTES OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)**

**Resolved (28 June 2024)**

1. That the minutes of the Municipal Public Accounts Committee be noted.

**24/06/MPAC2 MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) – ANNUAL WORK PLAN**

**Resolved (28 June 2024)**

1. That the MPAC Annual Workplan be approved.

15. **REPORT BACK: MUNIMEC**

None.

16. **REPORTS BY THE OFFICE OF THE MUNICIPAL MANAGER**

**24/06/MM1 COUNCIL RESOLUTIONS AS AT 31 MAY 2024**

Cllr Zana referred to page 63 and requested feedback on the status of the *Social Housing Partnership (FLISP)*. On the *Establishment of an Autism Centre*, he noted that the public participation process was due to be completed on 17 June 2024 and enquired about the progress of the process.

On the *Relocation of Unlawful Dwellers in the Aston Bay Caravan Park*, he enquired on the status of the relocation and applauded the department for addressing most issues.

Cllr Foley referred to page 92 on the *Alienation of Erf 512* comment that the function of determining a flood line lies with the Civil and Water Services department and requested clarity on whether the comment was well grounded. On page 112, he requested an update on the finalisation of the Economic Development Strategy and an update on the *Restructuring of Members to Section 80 Committees* as a list was awaited by the Office of the Speaker from the ANC.

Cllr Alexander referred to page 62 on the *Selling of 98 High Water Table Human Settlements Erven* and requested that the items be combined into one actionable task. He further noted that the Human Settlements department was scheduled to visit the residents of the 98 Wet Erven on 17 June 2024 and enquired whether the visit took place.

Cllr van der Linde referred to page 79 on the *Transfer of Provincial Roads: Da Gama, St Francis Drive and Woltemade Street to Kouga Municipality* and requested an update on the transfer.

He further highlighted that at the last Planning & Development Portfolio Committee meeting the Municipal Manager assured the Committee that new land would be earmarked for the development of the homeless shelter and enquired on the status of the commitment made by the Municipal Manager.

The Speaker requested feedback on the following matters:

- On the *Public Works Properties to be Transferred to Kouga Municipality*, page 61, he enquired whether feedback from the Department of Public Works was received.
- On page 66, he enquired on the status of rezoning erf 1331 in Pellsrus.
- On the *Application to Purchase a Portion of Portion 4 (Zwartenbosch)*, page 68, he enquired about the progress of evaluating the portion of land.
- On page 81, he enquired about the current status of disposing and transferring erf 3085.
- On page 140, he requested a timeline on when the tender relating to the *20MW Renewable Energy Construction Plan* will be drafted.
- On page 119, he enquired whether the fencing tender for the Weston Waste Water Treatment Works was submitted to the BAC for approval.
- On page 113, he enquired about the commencement of the public participation process after re-engagements have been held with the Development Bank of Southern Africa (DBSA).
- On page 115, he enquired whether the public auction took place as scheduled on 4 June 2024 regarding the *Capital Items to be Disposed*.

In response to the status of the *Social Housing Partnership (FLISP)*, the Acting Director: Planning & Development explained that a response was

sent to the Department of Environmental Affairs on issues that were raised, however, feedback was still awaited from the department.

On the public participation process relating to the establishment of the Autism Centre, he stated that the matter was finalised as the item was considered by the Municipal Planning Tribunal (MPT). On the relocation of unlawful dwellers at the Aston Bay Caravan Park, he highlighted that the matter was transferred to the Office of the Municipal Manager.

On the *Selling of 98 High Water Table Human Settlements Erven*, he stated that there was an intention to conduct a survey, however, the process had not commenced as there were other projects and plans to start the process in the following week were in place.

On the *Application to Purchase a Portion of Portion 4 (Zwartenbosch)*, he confirmed that valuations on the property have been received and that a request for service providers to perform the necessary land use processes to acquire land use rights would be published in the following week.

On the current status of disposing and transferring erf 3085, he stated that the matter was referred to Legal Services for finalisation. On the transfer of Public Works properties to the Municipality, he highlighted that feedback was received from the Department of Public Works that the process would be finalised through the Office of the MEC.

On the status of rezoning erf 1331 in Pellsrus, he stated that there was a requirement to sub-divide the property and that a Surveyor was appointed, however, a new service provider would be appointed to commence with the rezoning of the property in July 2024.

On the Relocation of Unlawful Dwellers in the Aston Bay Caravan Park, the Municipal Manager highlighted that there was no progress made on the matter as the matter has been exhausted.

On the 20MW Renewable Energy Construction Plan tender, the Director: Electro-Mechanical stated that a service provider will be appointed to compile the tender on the project in the new financial year.

On the fencing tender for the Weston Waste Water Treatment Works, the Director: Civil and Water Services confirmed that the tender was submitted to the BAC on 12 June 2024 and was awarded to MB Fencing And Civils (Pty) Ltd.

On the *Transfer of Provincial Roads*, he stated that the matter was currently being handled by the Legal Services department.

The Manager: Legal Services explained that an application to transfer the provincial roads with the Department of Public Works was submitted and feedback was awaited.

On the finalisation of the Economic Development Strategy, the CFO stated that all internal departments were engaged in the implementation strategies which have been developed and that the document was expected to be finalised in the next two to three weeks before submission to Council and the public participation process.

On the commencement of the public participation process relating to the re-engagements held with the DBSA, he stated that the public participation process would commence once a proposal has been received from DBSA because all the required documentation has been submitted. Once received, the Board will approve the proposal thereafter the public participation process can commence.

On the scheduled public auction, he confirmed that the auction was extended as more time was requested to market and it subsequently took place on 25 June 2024.

On the development of the homeless shelters, the Municipal Manager stated that there were plans to purchase the self-storage units near the Jeffreys Bay Secondary School, however, the units have been sold. He added that a church has been identified as a possible site and that the process will be carried out to establish a possible site.

On the determination of the flood line, the Director: Civil and Water Services clarified that the determination of a flood line was conducted through a specialised study by a Specialist.

On the *Restructuring of Members to Section 80 Committees*, the Speaker highlighted that the list has been received and that the action needed to be reflected as 'completed'.

**Resolved (28 June 2024)**

1. That the updated Action Sheets reflecting resolutions of previous Council meetings, be noted.
2. That the action sheet be tabled at Top Management for discussion and actioning.

17. **REPORTS BY THE OFFICE OF THE DEPUTY MUNICIPAL MANAGER**

24/06/DMM1 **KOUGA MUNICIPALITY INSTITUTIONAL CALENDAR**

**Resolved (28 June 2024)**

1. That Council approve the institutional calendar for the period 1 July 2024 to 30 June 2025.

18. **REPORTS BY THE PORTFOLIO COMMITTEE CHAIRPERSONS**

18.1 **REPORTS BY THE CHAIRPERSON: COMMUNITY & SAFETY SERVICES**



**24/06/CSS1 REVISED PREVENTION OF PUBLIC NUISANCE AND KEEPING OF ANIMALS BY-LAW**

*Item withdrawn*

**24/06/CSS2 TREE MANAGEMENT POLICY**

Cllr Maree applauded the department for drafting the Policy and requested that the Policy be distributed accordingly.

**Resolved (28 June 2024)**

1. That the Council approves the Tree Management Policy.
2. That the approved Policy be placed on the Kouga Municipal Website.

**MOTION OF EXIGENCY:**

**PREMATURE IMPLEMENTATION OF THE RULES AND ETHICS COMMITTEE RECOMMENDATIONS AGAINST COUNCILLOR PHUMZILE OLIPHANT**

Cllr Oliphant tabled a Motion of Exigency under Rule 30 of the Standing Rules and Orders for meetings of Council and all its Committees on the premature implementation of the disciplinary hearing sanctions by the Rules and Ethics Committee where sanctions were imposed before an appeal was finalised with the MEC of Cooperative Governance and Traditional Affairs (EC CoGTA). Under Rule 30.1, he requested that the matter be considered as a motion of exigency.

Cllr Zana seconded the proposal to table the motion.

At 10:56, the Speaker called for a 10-minute caucus.

Upon return at 11:11, the Speaker called for a vote on the tabling of the motion:

In Favour: 25

Not in Favour: 1

Abstained: 0

Cllr Oliphant tabled the motion and outlined that a disciplinary hearing was held by the Rules and Ethics Committee where he was found guilty. The sanctions outlined in the Rules and Ethics' recommendations were then approved by Council.

He added that Schedule 6 of the Municipal Systems Act allows for a Councillor to appeal with the Office of the MEC for Cooperative Governance and Traditional Affairs (EC CoGTA), however, during the appeal process the sanctions were implemented and a deduction was made.

He stated that the actions were unfair, premature and irregular requesting that Council rescind the resolution and that he be reimbursed for the monies deducted from his salary pending feedback from the Office of the MEC.

The Manager: Legal Services highlighted that *Schedule 7* of the Municipal Structures Act provides for an investigation to be conducted on any breach of the Code of Conduct or Rules of Order for Council and that the Rules and Ethics Committee can investigate the allegations and make recommendations to Council.

Once the recommendations have been approved, the Office of the Speaker must inform the Office of the MEC of proposed sanctions. *Item 16(3)* of *Schedule 7* provides that a Councillor who has been sanctioned has an opportunity to appeal with the Office of the MEC within 14 days of being notified.

She stated that to date, no supporting evidence or confirmation was received that an appeal was made with the Office of the MEC and that *Item 16(4)* also provides that the Office of the MEC must provide Council with a copy of the appeal, which has not been received. As a result, the sanctions were implemented.

Cllr van der Linde stated that reimbursement would be considered should the Office of the MEC communicate that the sanction was implemented prematurely.

Cllr Zana requested a 5-minute Caucus.

At 11:23, the Speaker granted a 5-minute caucus.

Upon return at 11:28, Cllr Zana highlighted that the ANC considered the sanction imposed as premature and requested that the sanction be rescinded pending feedback from the Office of the MEC as the appeal was submitted within the 14 days.

The Speaker called for a division of votes on the acceptance of the proposal to rescind the sanction.

In Favour: 8  
Not in Favour: 16  
Abstained: 2

## 19. **CLOSURE**

The meeting closed at 11:37

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**B WILLIAMS**

**SPEAKER**

06 August 2024

**DATE**