

UMZIMVUBU LOCAL MUNICIPALITY

COUNCIL MEETING

AGENDA

(PRIVATE AND CONFIDENTIAL)



UMZIMVUBU
— LOCAL MUNICIPALITY —

13 NOVEMBER 2017 – MUNICIPAL TOWN HALL- KWABHACA, 09h00

SPECIAL MEETING

UMZIMVUBU LOCAL MUNICIPALITY

NOTICE is hereby given in terms of **Section 29** of the **Municipal Structures Act No 117 of 1998** that the **Special Meeting** for the **Council of Umzimvubu Local Municipality** will be held at the **Municipal Town Hall in KwaBhaca** on **Monday, 13th of November 2017** at **09h00** to discuss the agenda as set out hereunder:

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MR GPT NOTA
MUNICIPAL MANAGER

A G E N D A

1. **OPENING/ WELCOME**
2. **READING OF THE OFFICIAL NOTICE**
3. **LEAVE OF ABSENCE**
4. **APOLOGIES**
5. **PECUNIARY INTEREST**
6. **COMMUNICATION STATEMENT BY THE MAYOR**
7. **DEPUTATIONS**
8. **OFFICIAL ANNOUNCEMENTS**
9. **CONFIRMATION OF MINUTES**

There are no minutes to be confirmed

10. BUSINESS OF THE DAY

**10.1 TRANSFER OF ELECTRIFICATION INFRASTRUCTURE CONSTRUCTED BY
UMZIMVUBU LOCAL MUNICIPALITY TO ESKOM**

**10.2 REPORT ON IRREGULAR EXPENDITURE FOR 2016-2017 FINANCIAL YEAR IN
ACCORDANCE TO WITH MUNICIPAL FINANCE MANAGEMENT ACT NO 56 OF 2003**

11. DATE OF THE NEXT MEETING

12. CLOSURE

10. BUSINESS OF THE DAY

ULMC: 28

10.1 TRANSFER OF ELECTRIFICATION INFRASTRUCTURE CONSTRUCTED BY UMZIMVUBU LOCAL MUNICIPALITY TO ESKOM

*(File No.: 9/1/2/3)
(Author: XN/GPT)*

PURPOSE

To seek a Council resolution to transfer all the infrastructure for electrification as constructed by Umzimvubu Local Municipality to Eskom to become the custodian of the assets as they are an entity responsible for maintenance of the asset.

LEGAL REQUIREMENTS

Municipal Finance Management Act no 56 of 2003,

STATUTORY

Asset Transfer Regulations
GRAP Standards

BACKGROUND AND REASONING

Umzimvubu Local Municipality has been receiving an Electrification Grant in terms of the Division of Revenue Act no.5 of 2012. Normal bidding processes were followed and the service provider was appointed to electrify villages. An amount of **R96 400 713.70** has been spent on Electrification to date.

This project has assisted a lot in terms of reducing Electrification backlog in Umzimvubu Local Municipality. As Eskom is a State Owned Enterprise that is the custodian of electrification of villages, they are responsible to ensure that the infrastructure is well maintained at all material times.

In terms of GRAP 23: an entity shall recognize an asset in respect of transfers when the transferred resources meet the definition of an asset and satisfy the criteria for recognition as an asset.

Umzimvubu Municipality has, after consideration of all relevant GRAP standards, come to a conclusion that:

- The Municipality does not have control over the asset
- The risks and rewards for electrification lie with Eskom
- The maintenance of the asset also is a responsibility of Eskom,

And therefore the asset must be transferred to Eskom formally.

In terms of the Municipal asset transfer regulations:

22(a) all decisions relating to the transfer of the capital asset must be taken by the municipality or municipal entity as an integral part of the broader decision-making process on the selection of a service provider for the performance of the municipal service or on the reorganisation of powers or functions in terms of the legislation applicable to that process;

In relation to the decision on Electrification Project transfer to Eskom, the Municipality is not the custodian of powers and functions for electrification, the municipality is implementing the project as an agent, even though there are no agency fees received by the Municipality. The only benefit that the Municipality enjoys out of this transaction is speedy service delivery.

LABOUR IMPLICATIONS

There are no labour Implications as the infrastructure will be transferred as it is. There are no employees that are dedicated to perform the function.

SERVICE DELIVERY IMPLICATIONS

There has been positive spinoffs in terms of service delivery as most villages were electrified way before their due date as per Eskom plans.

LEGAL IMPLICATIONS

A tripartite agreement will be signed between Umzimvubu Municipality, Department of Energy and Eskom to transfer the infrastructure.

FINANCIAL IMPLICATIONS

Umzimvubu will transfer the infrastructure at no cost to Eskom and this will result in loss on transfer of an asset. The Municipality will have to budget for this loss to avoid unauthorised expenditure.

ANNEXURES

Annexure: Umzimvubu Report on Energised Villages

RECOMMENDATIONS

1. The report on transfer of Electricity infrastructure to Eskom be noted by the Council.
2. That electricity infrastructure in all energised villages be transferred to Eskom as the custodians of Electricity powers and functions.
3. That in Future, the Municipality must analyse all electrified villages transfer them to Eskom immediately.

4. That the transfer be done at no cost to Eskom as the Municipality used an electrification grant to fund the asset.
5. That the loss on transfer of assets be properly budgeted for to avoid unauthorised expenditure.
6. That the tripartite agreement formalising the transfer be signed between DOE, ESKOM and Umzimvubu Local Municipality.
7. That the transfer of Electrification be done not later than March 2018 when all due process has been followed and budget adjustment has been approved by Council.

- ***For Consideration.***

ULMC: 29

10.2 REPORT ON IRREGULAR EXPENDITURE FOR 2016-2017 FINANCIAL YEAR IN ACCORDANCE TO WITH MUNICIPAL FINANCE MANAGEMENT ACT NO 56 OF 2003

PURPOSE

To report on Irregular expenditure incurred for the year ended 30 June 2017 in accordance with the Municipal Finance Management Act No 56 of 2003 and Municipal Supply Chain Management Regulations.

LEGAL / STATUTORY REQUIREMENTS

This report has been prepared in terms of the Municipal Finance Management Act read together with Municipal Supply Chain Management Regulations.

AUTHORITY

Section 32 (4) (a) (b) (c) (ii) of the Municipal Finance Management Act No 56 of 2003.

BACKGROUND AND REASONING

Section 29 (2) of the Municipal supply chain management regulations stipulates that:

A bid adjudication committee must consist of at least four senior managers of the municipality or municipal entity which must include:

- (i) the Chief Financial Officer or, if the Chief Financial Officer is not available, another Manager in the Budget and Treasury Office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer;
- (ii) **at least one senior supply chain management practitioner who is an official of the municipality or municipal entity;** and a technical expert in the relevant field who is an official of the municipality or municipal entity, if the municipality or municipal entity has such an expert.

In the case of Umzimvubu Municipality, the BAC is composed of all Senior Managers and the CFO is the Chairperson of the Committee, no SCM practitioner is involved as the Municipality is one of the smaller municipalities, the SCM Manager is the Chairperson of Bid Evaluation Committee and Senior SCM Officer sits in the bid Specification Committee.

The committee was set up in this manner taking into account that the CFO plays both Budget and Treasury Officer and SCM Practitioner role in line with section 81(1) (e) & (2) of the MFMA. This was done to minimise risk at Bid Evaluation Committee, which is a committee that has more responsibility in terms of ensuring that BIDS are correctly awarded to qualifying suppliers. This has been a practice in Umzimvubu Local Municipality and many other low-capacity Municipalities in South Africa since

the introduction of MFMA no.56 of 2003, and it has never been questioned by Auditor General and National Treasury.

The office of the Auditor General has, during this financial year, raised a finding on the composition of BAC for Umzimvubu LM and if National Treasury does not respond, all the expenditure for bids above R200 000 incurred during 2016/17 financial year and year before will be declared as irregular expenditure.

In making sure adequate compliance with the prescribed standards the municipality must:

- Forward a request to Council to consider the writing off the irregular expenditure incurred for awarded bids above R200 000.00 for 2016-2017 financial year and all opening balances relating to bids above R200 000.
- Appropriately account for the all irregular expenditure that is incurred by the Municipality during the financial year of 2016/17 and before.
- The Annual Financial Statement must disclose expenditure incurred for awarded bids above R200 000.00 in the year under review and before that are not in compliance to the act which may result to Irregular Expenditure as contemplated by Section 32 of Municipal Finance Management Act No 56 of 2003.

LABOUR IMPLICATIONS

No labour implications.

FINANCIAL IMPLICATIONS

All expenditure incurred for bids awarded which were above R200 000.00

SERVICE DELIVERY IMPLICATIONS

No service delivery implications

LEGAL IMPLICATIONS

Other than the composition of Bid Adjudication Committee:

- The Municipality has not incurred irregular expenditure
- The Municipality has no fruitless and wasteful expenditure relating to legal costs emanating from wrongful award of tenders
- The Municipality has never disregarded the internal auditors and Auditor general as this issue was never raised since the introduction of the Municipal Finance Management Act no.56 of 2003

OTHER PARTIES CONSULTED

Audit Committee
Management
MPAC

National Treasury
Provincial Treasury
Auditor General

RECOMMENDATIONS

1. That the report on Irregular expenditure incurred for the year ended 30 June 2017 be noted by the Council
2. That the Municipal Public Accounts Committee must investigate the matter and table the recommendations to the Council on or before the 25th of November 2017.
3. That Accounting Officer must promptly advice, in writing the MEC, National Treasury and Auditor General about the irregular expenditure incurred.
4. That a legal expert be consulted to give a legal opinion on the interpretation of legislation.

- ***For Consideration.***