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UMZIMVUBU
LOCAL MUNICIPALITY

SPECIAL COUNCIL AGENDA

FRIDAY, 26 FEBRUARY 2021

VIRTUALLY ON ZOOM AT 10H00

SPECIAL MEETING

(Private and confidential)



UMZIMVUBU LOCAL MUNICIPALITY

NOTICE is hereby given in terms of **Section 29** of the **Municipal Structures Act No 117** of **1998** as amended that the **Special Council Meeting** will be held virtually via zoom application on **Friday, 26th of February 2021** at **10h00** to discuss the agenda items as set out hereunder.

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MR GPT/NOTA
MUNICIPAL MANAGER

AGENDA

1. **OPENING/ WELCOME**
2. **READING OF THE OFFICIAL NOTICE**
3. **LEAVE OF ABSENCE**
4. **APOLOGIES**
5. **PECUNIARY INTEREST**
6. **COMMUNICATION STATEMENT BY THE CHAIRPERSON**
7. **DEPUTATIONS**
8. **OFFICIAL ANNOUNCEMENTS**
9. **CONFIRMATION OF MINUTES**
- 9.1 **THERE ARE NO MINUTES TO BE CONFIRMED**

10. **REPORTS FOR CONSIDERATION BY COUNCIL**

10.1 REPORT ON RESCINDMENT OF COUNCIL RESOLUTION SUSPENDING THE HONOURABLE MAYOR, CLLR SK MNUKWA OF UMZIMVUBU LOCAL MUNICIPALITY.

11. **DATE OF THE NEXT MEETING**

12. **CLOSURE**

APPLICATION FOR LEAVE

Tick the appropriate block:

Municipal Business

Personal Commitments

Overseas travel

Indisposed

Other

I, _____, hereby apply for leave from the Management Committee Meeting scheduled to be held on _____

Signature

Date

Please complete this form and return to the Municipal Manager or fax to (039) 255 1893

9. **CONFIRMATION OF MINUTES**

THERE ARE NO MINUTES TO BE CONFIRMED

10. **REPORTS FOR CONSIDERATION BY COUNCIL**

10.1 **REPORT ON RESCINDMENT OF COUNCIL RESOLUTION SUSPENDING THE HONOURABLE MAYOR, CLLR SK MNUKWA OF UMZIMVUBU LOCAL MUNICIPALITY**

(Author: MM/GPTN)
(Level 1: Special Council-25/02/2021)

PURPOSE

To request Council to rescind a council resolution with resolution number ULMC 356/2020/21 that was suspending the Mayor, Councillor Mnu kwa with immediate effect.

To request Council to allow the Mayor, Councillor SK Mnu kwa to carry on with his duties with immediate effect.

AUTHORITY

The Municipal Structures Act 117 of 1998 as amended
The municipal Systems Act 32 of 2000; Schedule 1
Council Rules of Order

LEGAL AND STATUTORY REQUIREMENTS

The Municipal Structures Act 117 of 1998; Section 79 of the Municipal Structures Act stipulates that a Council may establish one or more committees necessary for the efficient and effective performance of any of its functions.

The Local Government Municipal Systems Act 32 of 2000; Item 14(1)(b) of Schedule 1 states that a municipal Council may establish a special committee to investigate and make a finding on any alleged breach of the Code of Conduct for Councillors and to make appropriate recommendations to Council.

Code of Conduct for Councillors – Schedule 1; section 14, Breaches of Code subsection 2(c)

BACKGROUND AND REASONING

On the 18th of December 2020, a special Council was convened where the response received from the MEC was presented.

The Council took a resolution of suspending the Mayor with immediate effect pending finalization of the matter /disciplinary enquiry and /or ratification by the relevant Member of the Executive Committee of the Eastern Cape Provincial Department who has locus standing and oversight on municipalities, i.e. COGTA Eastern Cape Province.

On the 18th of February 2021, the Speaker received a response letter from the MEC stating that it had come to his attention that Umzimvubu Local Municipality Council took a decision about a month ago to suspend the Mayor despite his advice that Council should not do so. The MEC confirmed that in terms of Schedule 1: Code of Conduct for Councillors in the Local Government Municipal Systems Act, only the MEC is empowered to suspend the Mayor as a precautionary measure.

The decision that Council took was unlawful as Council does not have such power, it can only recommend to the MEC. In his letter, he then directed the Council to rescind the decision of suspending the Mayor with immediate effect and allow the Mayor to carry on with his duties.

On the 23rd of February 2021, a special Council was held where a notice of intention to rescind a Council resolution suspending the Mayor was approved by Council.

The Speaker as mandated by Council and in consultation with the Municipal Manager appointed Mr Conjwa as the Initiator and Mr Mdledle as a Presiding Officer for the disciplinary hearing of the Mayor, councillor SK Mnukwa. The date for the hearing has not yet been set down.

The Council noted that a provision of the Code was breached by the Mayor, councillor SK Mnukwa as established by the investigation reports, therefore an investigation of the facts and circumstances of the alleged breach must proceed.

LABOUR IMPLICATIONS

None

FINANCIAL IMPLICATIONS

There are financial implications as Attorneys appointed will be paid in order to finalise the process.

ANNEXURES

None

SERVICE DELIVERY IMPLICATIONS

None

OTHER PARTIES CONSULTED

None

RECOMMENDATIONS

1. That the Council rescinds a council resolution with resolution number ULMC 356/2020/21 that was suspending the Mayor, Councillor MnuKwa with immediate effect.
2. That the Council allows the Mayor, councillor SK MnuKwa to carry on with his duties with immediate effect.
3. That councillor G. Makanda will cease to be an acting Mayor with immediate effect.
4. That Council will proceed with the implementation of investigation of the facts and circumstances of the alleged breach of conduct by the Mayor, councillor SK MnuKwa as established by the investigation reports.
5. That the Speaker should write to the MEC of CoGTA reporting that the Council implemented his directive of reinstating the Mayor and further advise that the due processes of concluding the matter regarding the Mayor's alleged breach of code of conduct as established by the investigation reports are still underway.

11. DATE OF THE NEXT MEETING

The date of the next Ordinary Council meeting is the 26 March 2021.

12. CLOSURE