

No. 70

MINUTES

OF

ETHEKWINI MUNICIPAL COUNCIL

Special meeting held on Wednesday, 2024-07-10T10:00,
Inkosi Albert Luthuli International Conventional Centre, Durban.

PRESENT : Councillors TE Nyawose (Speaker), VC Xaba (Mayor), ZP Myeni (Deputy Mayor), A Abdul, J Annipen, A Beetge, T Biyela, JM Black, WJD Burne, MH Buthelezi, KPM Cele, SB Cele, SP Chebure, J Chetty, R Cloete, CB Dlamini, Z Dzanibe, J Essop, BA Fortein, SN Gabela, SG Gama, GM Gasa, DM Gcabashe, FO Gcabashe, S Govender, SV Govender, Y Govender, S Gumede, MS Gwala, GJ Hegter, MM Hlengwa, NP Hlomuka, SD Hlongwa, F Ismail, MF Ismail, LBS Jali, DM James, M Johnson, K Khambule, MH Khan, SM Khanyile, NP Khawula, MN Khubisa, KNN Khubone, NL Khuzwayo, ZW Khuzwayo, SNC Khwela, A Kissoon, BG Kubheka, V Kunju, CJ Laing, SW Lushaba, M Lutchen, WM Luthuli, ME Mabaso, RD Macpherson, MA Madlala, NI Madlala, SR Madlala, RP Maharaj, S Maharaj, FN Majola, TG Makhanya, HS Makhathini, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, KT Mbhele, RP Mbonambi, BA Mchunu, JL Mchunu, NP Mchunu, SW Mcineka, RL McKenzie, X Mdlazi, FW Mdletshe, DL Mea, SP Mfeka, MA Mgobhozi, GN Mhlongo, NM Mhlongo, SE Mhlongo, MB Mjadu, AZ Mkhize, KV Mkhize, MA Mkhize, ME Mkhize, MP Mkhize, NA Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, BR Mngadi, DF Mngadi, E Mngadi, SV Mngadi, MR Mngonyama, TJ Mnguni, ZM Mncwango, DP Mngoma, BV Mngwengwe, ZO Mnomiya, S Mnyandu, T Mohamed, R Moses, ND Motseke, SB Mpanza, LI Msomi, DV Msweli, SSS Mthethwa, TD Mthethwa, TM Mthethwa, N Munien, OB Mvubu, SK Mzimela, BD Naidoo, J Naidoo, S Nala, V Ncukana, NB Ndlela, AB Ndlovu, MF Ndlovu, PB Ndlovu, PC Ndlovu, NS Ndlovu, TB Ndlovu, V Ndlovu, SG Nene, TH Nene, SB Ngcongo, DB Ngubane, LE Nkomeni, MS Nkosi, DR Nowbuth, DM Nsundwane, SH Ntombela, PC Ntshangase, NC Ntshayintshayi, BT Ntuli, N Ntuli, NZ Ntuli, PB Ntuli, B Nxumalo, MR Nxumalo, PH Nxumalo, TS Nxumalo, NN Nyanisa, MV Nzimande-Madlala, AAK Paruk, NE Patshapen, AE Peterson, BW Phewa, D Pillay, P Pillay, GDA Pullan, A Rampersad, R Rampersad, T Sabelo, A Shaheed, BH Shange, LP Shange, TE Shezi, IM Shinga, HP Shoji, JN Sibisi, KS Sibisi, LC Sikhakhane, BSB Sindane, J Singh, R Singh, S Singh, PS Sishange, CN Sisoka, NI Sithole, BS Sivetye, EG Smith, AD Snyman, ZR Sokhabase, ZA Solomon, ME Thusi, M Thusi, ZN Tshazela, NT Tyelinzima, JC Van den Berg, HM Van Der Ryst, NB Vilakazi, NI Webster, SM Windvogel, NL Xulu, TV Xulu, NY Young, M Zondi, N Zondi, ON Zondi-Mthembu, TG Zungu and there being seven (07) vacancies.

ABSENT : Councillors M Brauteseth (Personal Commitments), G Govender (Personal Commitments), BR Gumede, K Mhlaba, T Miya (Personal Commitments), DPM Mhlongo (Personal Commitments), NN Mkhize (Indisposed), XM Nqweniso (Indisposed), AS Phahla (Personal Commitments),

S Sewshanker (Personal Commitments), MG Shange (Indisposed), EL Singh (Personal commitments), I Syed (Indisposed), BB Thusi (Indisposed) and T Xuma.

AMAKHOSI

PRESENT : Inkosi EB Shozi

AMAKHOSI

ABSENT : Inkosi S Mlaba and Inkosi JJ Shangase.

OFFICIALS

PRESENT : Messrs/Mesdames BT Mbhele (City Manager), M Mhlongo (Head: Legal & Compliance), S Mfingwana (Deputy Head: Litigation), BM Mhlongo (Deputy Head: Office of the Speaker), T Ndlovu (Senior Manager: Secretariat) and Sibongile Kunene (Manager: Council Committees).

QUORUM

At this stage of the proceedings, the Speaker afforded Council Members the opportunity to settle down and for the Administration to establish the number of Councillors present to constitute a quorum for this Special Council meeting.

Accordingly, at the commencement of the meeting, a number of 197 Councillors were present, comprising ANC – 94, DA - 49, EFF - 18, IFP - 07, ASA - 03, ABC - 00, ACC - 00, ACDP - 00, AIC - 01, ADEC - 01, APF - 01, ATM - 01, AL JAMA-AH - 01, DLC - 01, JEP - 01, KZNI - 01, MF - 01, MOSA - 01, NFP - 01, PFP - 01, PRM - 01, TA- 01, UIM - 01 and VF Plus - 01).

1. **NOTICE CONVENING THE MEETING**

As per the statutory requirement, the City Manager read the Notice convening this Special Municipal Council meeting.

2. **WELCOME**

The Speaker thereafter officially opened the Special Council meeting scheduled for the purpose of appointing new eThekweni Municipality Mayor. He extended warm welcome to everybody present, starting with his fellow Council Members and Amakhosi aseNdlunkulu; the Administration Team led by the City Manager; different Media houses; Members of the public present and those viewing through social media streaming.

A special warm welcome was extended to the Mayor-elect guests; and the former Honourable Minister of Police, Mr Bheki Cele, who has graced this special Council meeting with his presence; also, the Independent Electoral Commission (IEC) Team, present in this Special meeting to support the Speaker in the event a process to appoint new Mayor is taken to the vote.

3. AFRICAN UNION AND NATIONAL ANTHEM

At the request of the Speaker the meeting stood to sing the African Union Anthem and the National Anthem of the Republic of South Africa.

4. OPPORTUNITY FOR PRAYER/MEDITATION

The meeting observed a moment's silence to pray and meditate prior to commencing with the Council proceedings.

5. OFFICIAL ANNOUNCEMENTS

The Speaker reiterated the reason for convening this Special Council meeting, which was purely dedicated to the appointment of new eThekweni Municipality Mayor. In this regard, he narrated a procedure to be followed for this purpose, as outlined in detail in the report from the Executive Committee contained below. What was of essence was the involvement of the IEC to administer the elections through a secret ballot voting process in the event more than one member of the Executive Committee is nominated for the position of Mayor.

6. APPLICATIONS FOR LEAVE OF ABSENCE

The City Manager presented the following applications for leave of absence received from Council Members. With these having been accepted accordingly, it was

RESOLVED:

That the applications for leave of absence received from Council Members, recorded below, be approved:

COUNCILLORS

Councillor M Brauteseth	:	2024-07-10 (Personal Commitments)
Councillor J Essop	:	2024-07-10 (To leave at 11h00)
Councillor G Govender	:	2024-07-10 (Personal Commitments)
Councillor MF Ismail	:	2024-07-10 (To leave early- Personal Commitments)
Councillor T Miya	:	2024-07-10 (Personal Commitments)
Councillor DPM Mhlongo	:	2024-07-10 (Personal Commitments)
Councillor NN Mkhize	:	2024-07-10 (Indisposed)
Councillor V Msweli	:	2024-07-10 (To arrive at 11h00)
Councillor X Nqweniso	:	2024-07-10 (Indisposed)
Councillor AS Phahla	:	2024-07-10 (Personal Commitments)
Councillor S Sewshanker	:	2024-07-10 (Personal Commitments)
Councillor MG Shange	:	2024-07-10 (Indisposed)
Councillor EL Singh	:	2024-07-10 (Personal Commitments)
Councillor I Syed	:	2024-07-10 (Indisposed)
Councillor BThusi	:	2024-07-10 (Indisposed)

7. DECLARATION OF INTEREST

It was noted that none of the members have declared interest in the proceedings of this Special Council meeting. The Speaker then clarified that new Mayor will be appointed from amongst the Executive Committee members. Therefore, all other Councillors will participate in the nomination process and voting thereon should the appointment process is taken to the vote.

(Her Worship the Deputy Mayor, Councillor ZP Myeni presented the First Report of the Executive Committee)

FIRST REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2024-06-24)

PRESENT : Executive Committee Members ZP Myeni (Deputy Mayor and Chairperson), A Beetge, Y Govender; NI Madlala, TM Mthethwa, OB Mvubu, MS Nkosi, ZR Sokhabase and there being one (01) vacancy.

ABSENT : Executive Committee Member BT Ntuli (Leave- Municipal Business).

1. FILLING OF VACANCY OF THE ETHEKWINI MUNICIPALITY MAYOR

1.1 Background on Vacant Position of Mayor:

The Municipal Council will recall that the then Mayor of eThekweni Municipality and Chairperson of the Executive Committee, former Councillor TM Kaunda, tendered his resignation on 14 June 2024. Preparations have been underway to fill a vacancy created, for the Executive Committee to be fully constituted and with the Municipality to officially have a political head. Meanwhile, the stability created by the Deputy Mayor in terms of presiding over the Executive Committee meetings and attending to duties, including ceremonial functions, was greatly appreciated.

1.2 Legislated Process for the Appointment of Mayor:

A Mayor is appointed amongst the members of the eThekweni Municipality's Executive Committee. Schedule 3 of the Local Government: Municipal Structures Act No. 117 of 1998, as amended, stipulates procedure to be followed by the Municipal Councils to elect office bearers, namely, Speaker; Executive Mayor; Deputy Executive Mayor; Mayor; Deputy Mayor; and Whip of Council. The procedure prescribed in Schedule 3 is narrated in 1.3 below.

1.3

Election Procedure to Fill the Position of Mayor:

The Speaker of Council is assigned to preside over the election of Mayor. For the purpose of elections in this Special meeting, and for objectivity purposes, the Speaker has solicited assistance of the Independent Electoral Commission (IEC) to conduct the election, through a secret ballot system, in the event there is more than one candidate nominated for the position of Mayor.

As per the provisions in the legislation, the election procedure to be followed was to entail the following elements:

(i) Nomination Process

- (a) The Presiding Officer, in this case, the Speaker, after outlining the election process, was to call for the nomination of a candidate(s) to serve as Mayor.
- (b) A designated nomination form designed by the City Administration Unit was to be used for the nomination process.
- (c) A nominator; seconder; and nominee all to sign the nomination form. A nominee to sign, whether accepting or not accepting, just to have accurate record of what has transpired during the nomination process.
- (d) Thereafter, the Speaker to announce a name(s) of a person(s) being nominated.
- (e) In the event there is one (01) nomination, that person to be declared the eThekweni Municipality Mayor.
- (f) Where there is more than 01 person nominated, the Speaker to then handover to the IEC team to administer voting through a secret ballot system.

(ii) Secret Ballot Voting System

The IEC official to administer a secret ballot voting system. A process to be followed to be explained to refresh Councillors of the sequence of events:

- (a) Upon confirmation of nominations, the City Administration Team to compile and print ballot papers inside the venue.
- (b) Councillors to produce identification [outlined in (iii) below] and be checked from the voters roll prepared by the City Administration Unit.
- (c) Upon verification, the IEC Team to help issue a ballot paper to each Councillor who will then be directed to proceed to the voting booth to cast a vote.
- (d) A vote to be taken inside the meeting through a secret ballot.

(iii) Documents Required for the Secret Ballot Voting

For a Councillor to be eligible to cast a secret ballot vote, one of the following documents should be produced for verification purposes:

- (a) South African Identity Document or certified copy
- (b) Valid Temporary Identity Document or certified copy
- (c) South African Drivers Licence
- (d) Valid Temporary South African Drivers Licence or certified copy
- (e) Passport or certified copy
- (f) Staff Identity Tag

(iv) Counting of Votes and Announcement of Results

- (a) On completion of the voting process, ballot boxes to be emptied inside the venue for counting purposes.
- (b) Interested Political Party Representatives to come and observe the counting process.
- (c) On completion of the counting of votes, a result slip, designed by the City Administration Unit, to be completed, signed off by the IEC official and observers, and thereafter handed over to the Presiding Officer (Speaker) to announce the voting outcome.
- (d) Thereafter, a person that received the majority votes to be then declared Mayor of eThekweni Municipality.

(v) Swearing-in Process and Maiden Speech

- (a) The Chief Justice will then take responsibility to swear-in the Mayor.
- (b) Thereafter, the Speaker to give the Mayor an opportunity to address the Municipal Council.
- (c) On completion of the speech, the Speaker to give guidance, heading to the conclusion of the proceedings.

The Executive Committee having noted the process accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council notes a process to be followed to appoint new eThekweni Municipality Mayor, which process is prescribed in Schedule 3 of the Local Government: Municipal Structures Act No. 117 of 1998, as amended, and with the Speaker to oversee the entire process, supported by the Independent Electoral Commission team for objectivity purposes and, in the event a need arises to appoint the Mayor through a secret ballot voting system, it being recorded though that some of the elements outlined in the process have been designed by the City Administration Unit to dignify the process and such not necessarily outlined in the aforesaid Schedule 3.

NOTED.

The Council having noted a process to appoint new Mayor, as outlined above, preparations ensued to commence with a nomination process. Prior to taking hands for the nomination process, the attention of the Speaker was drawn to allegedly unknown people on the seats of former Councillors of certain Political Parties.

Responding thereon, the Speaker indicated that all new Councillors were introduced during the recently-held virtual Council meeting. However, as the Councillors continued pleading not knowing these Councillors, the Speaker reiterated their introductions as follows:

<i>No.</i>	<i>New Councillor</i>	<i>Political Party</i>	<i>Former Councillor</i>
<i>1.</i>	<i>Vusumuzi Cyril Xaba</i>	<i>ANC</i>	<i>Thomas Mxolisi Kaunda</i>
<i>2.</i>	<i>Nathaniel Eugene Patshapen</i>	<i>ADEC</i>	<i>Visvin Reddy</i>
<i>3.</i>	<i>Rashina Singh</i>	<i>MOSA</i>	<i>Shunmugam Ramsamy Moodley</i>

Thereafter, the discussion reverted to the nomination process to appoint new Mayor of eThekweni Municipality. The nomination process was subsequently preceded by a series of requests for Political Party Caucuses, with the Parties preparing to consolidate their caucus positions on this matter. The Party Caucuses occurred in different intervals, which caucuses commenced 10h50 and finished at 12h00. For ease of reading, the Party Caucus meetings have been consolidated and recorded seriatim in the table below:

<i>No.</i>	<i>Political Party Caucus</i>	<i>Requested Time</i>	<i>Time Allocation by Speaker</i>	<i>Report Back</i>
<i>1.</i>	<i>DA</i>	<i>15 Minutes</i>	<i>10 Minutes</i>	<i>Ready for the nomination process</i>
<i>2.</i>	<i>EFF</i>	<i>15 Minutes</i>	<i>10 Minutes</i>	<i>Ready for the nomination process</i>
<i>3.</i>	<i>ANC</i>	<i>10 Minutes</i>	<i>10 Minutes</i>	<i>Ready for the nomination process</i>
<i>4.</i>	<i>DA</i>	<i>05 Minutes</i>	<i>05 Minutes</i>	<i>Ready for the nomination process</i>
<i>5.</i>	<i>Minority Parties</i>	<i>05 Minutes</i>	<i>05 Minutes</i>	<i>Ready for the nomination process</i>
<i>6.</i>	<i>ActionSA</i>	<i>05 Minutes</i>	<i>05 Minutes</i>	<i>Ready for the nomination process</i>

Upon exhausting the caucuses, the Speaker officially commenced with the nomination process for the position of Mayor. The Speaker having called for nominations, these were undertaken as follows:

<i>No.</i>	<i>Nominator</i>	<i>Nominee</i>	<i>Seconder</i>	<i>Nominee Acceptance</i>
<i>1.</i>	<i>Deputy Mayor, ZP Myeni</i>	<i>Cllr VC Xaba</i>	<i>Cllr NI Madlala</i>	<i>Accepted</i>
<i>2.</i>	<i>Cllr Z Mncwango</i>	<i>Cllr T Mthethwa</i>	<i>Cllr BG Kubheka</i>	<i>Not accepted (On the basis that there has been no prior discussion about this nomination status)</i>

With the Speaker having called for further nominations, it appeared that there were no other hands available. Therefore, with Councillor Mthethwa having declined the nomination, Councillor Xaba was therefore the only nominated Councillor for the position of Mayor.

With there being no further nominations, and with the nomination of Cllr Xaba being unopposed, it was accordingly

RESOLVED:

That, as per the unanimous decision of the Municipal Council, following the nomination made by the Deputy Mayor, Councillor ZP Myeni; seconded by Councillor Madlala, the Executive Committee Member, Councillor Vusumuzi Cyril Xaba, be appointed new Mayor of the eThekweni Municipality, effective immediately.

ADOPTED.

The meeting terminated at 12h38.

APPROVED AT THE MEETING OF THE ETHEKWINI COUNCIL ON 2024-08-01.

SPEAKER