

# **NDLAMBE MUNICIPALITY**



## **AGENDA**

### **OPEN NDLAMBE COUNCIL MEETING**

**DATE: THURSDAY, 28 MARCH 2024**

**TIME: 10H00**

**VENUE: COUNCIL CHAMBERS  
CAMPBELL STREET,  
PORT ALFRED.**

**AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING WILL BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

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**NOTICE is hereby given that an OPEN MEETING of the NDLAMBE COUNCIL will be held on THURSDAY, 28 MARCH 2024 at 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

**PORT ALFRED**  
22 March 2024

**DIRECTOR: CORPORATE SERVICES**  
for: **MUNICIPAL MANAGER**

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**TO: Councillor: A Marasi (In the Chair)**

**Councillors:** KC Ncamiso, (Mayor) A. Bukani, S. T Dyakala, N. E. Haynes, W. Johannes, P. Y Kani, S. Kolosa, P. Khungwayo, T. Mbekela, N. F. Memani, M. Mgweba, Z. W. Myali, S. Melani, A Nyumka, X. Runeli, M. Sweli, S. Venene, E. H. K. Walker, S. Zweni.

**Officials:** Municipal Manager, Directors: Financial Management, Corporate Services, Infrastructural Development, Community / Protection Services.

Deputy Directors: Financial Management, Infrastructural Development (Port Alfred), (Alexandria), Community/Protection Services, Manager: Local Economic Development, Manager: Human Resources, Manager: Town Planning, Manager: Integrated Development Plan, Manager: Housing, Manager: Supply Chain Management Unit, Manager Water Services, Manager: Budget & Treasury Manager: Internal Audit Unit, Manager: Administration, Communication Officer, SAMWU and IMATU.

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**NCA001/03/2024**

**OPENING**

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**NCA002/03/2024**

**APPLICATION FOR LEAVE OF ABSENCE**

**3/2/4**

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**NCA003/03/2024**

**OFFICIAL ANNOUNCEMENTS BY THE SPEAKER**

**3/2/1**

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**NCA004/03/2024**

**REPORTS OF SPEAKER IN TERMS OF RULES**

**10 (1) and 87 (4)**

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**NCA005/03/2024**

**DISCLOSURE OF INTEREST BY COUNCILLORS (SCHEDULE 1 OF MUNICIPAL  
SYSTEMS ACT)**

Attached as Annexure C. 01

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**NCA006/03/2024**

**DISCLOSURE OF INTEREST AND BENEFITS BY MUNICIPAL STAFF MEMBERS  
(SCHEDULE 2 OF MUNICIPAL SYSTEMS ACT)**

Attached as Annexure C. 02

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**NCA007/03/2024**

**REPORTS RECEIVED BY THE SPEAKER**

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**NCA008/03/2024**

**MOTIONS OF SYMPATHY AND CONGRATULATIONS BY THE SPEAKER**

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**NCA009/03/2024**

**MOTIONS OF SYMPATHY AND CONGRATULATIONS BY OTHER COUNCILLORS**

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**NCA010/03/2024**

**DEPUTATIONS AND INTERVIEWS**

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**AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING WILL BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

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**NCA011/03/2024**

**COMMUNICATION BY THE MAYOR**

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**NCA012/03/2024**

**MINUTES OF PREVIOUS FULL OPEN NDLAMBE COUNCIL MEETING: 30 JANUARY 2024**  
**3/2/1**

That the Minutes of the Full Open Ndlambe Council meeting held on 30 January 2024, Resolutions NCM001/01/2024 to NCM027/01/2024, a copy which appears as **Annexure C.03** BE CONFIRMED.

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**NCA013/03/2024**

**MINUTES OF PREVIOUS SPECIAL OPEN NDLAMBE COUNCIL MEETING: 27 FEBRUARY 2024**  
**3/2/1**

That the Minutes of the Special Open Ndlambe Council meeting held on 27 February 2024, Resolutions SNCM001/02/2024 to SNCM011/02/2024, a copy which appears as **Annexure C.04** BE CONFIRMED.

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**NCA014/03/2024**

**REPORT ON IMPLEMENTATION OF COUNCIL RESOLUTIONS**

Implementation of the Council Resolutions, a copy which appears as **Annexure C.05**, BE CONFIRMED AND UPDATED.

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**NCA015/03/2024**

**REPORT DATED 12 MARCH 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL:  
LOCAL GOVERNMENT SERVICES CHARTER**

**PURPOSE**

For Council to Adopt the Local Government Charter

**BACKGROUND**

The purpose of the Charter is to improve service delivery, reinforce commitment to service improvement, clarify rights and obligations, acknowledge excellent performance, professionalize local government, enhance performance, define service standards, prevent corruption, facilitate social dialogue, treat citizens with dignity, and ensure effective municipalities. It also aims to define services, service standards, commitments by SALGA and member municipalities, and commitments by local government employees. The Charter covers various services provided by local government, including health, safety, human settlements, social welfare, water and sanitation, energy, waste removal, and more. Municipalities must ensure all employees are aware of the Charter's contents. The organised labour has been consulted about the Local Government Charter through the Local Labour Forum and the charter also served before the Portfolio Committee: Corporate Services and Economic, Social & Tourism Development.

**DISCUSSION**

An important point of the Charter is to facilitate a rewards and recognition system aligned with its values, introduce modern service delivery procedures, implement technology policies, optimize governance systems, simplify procedures, ensure accountability, recognize employees' rights to associations and unions, provide continuous training, and maintain adequate staffing levels. Municipal employees commit to serving the public faithfully, promoting national unity, executing government policies, being accessible and polite to the public, considering public concerns, providing timely service, and contributing to the development of all South Africans. The Charter aims to enhance service delivery, prevent corruption, and promote professionalism in local government.

The Charter aims to enhance service delivery, prevent corruption, and promote professionalism in local government by setting standards for employees' conduct, commitment to service improvement, and accountability. It emphasizes the importance of upholding values, respecting citizens' rights, preventing discrimination, and ensuring transparency in decision-making processes. The Charter also focuses on promoting collaboration, accountability, integrity, and efficiency within municipalities to provide citizens with the best value for money and high-quality services. Overall, it seeks to create a culture of excellence, integrity, and respect in the local government sector.

The Local Government Charter is attached as **Annexure C.06**

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**RECOMMENDATION TO COUNCIL**

THAT the Local Government Charter **BE ADOPTED**.

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**NCA016/03/2024**

**REPORT DATED 18 MARCH 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL: REPORT ON REVIEW OF HUMAN RESOURCES POLICIES: ANTI-CORRUPTION AND FRAUD PREVENTION POLICY, WHISTLE BLOWING POLICY**

**PURPOSE**

For Council to review and adopt the Human Resources Policies.

**BACKGROUND**

It is imperative that the Human Resources Policies should be reviewed to ensure consistency with the current applicable legislations. However, it is worth noting that ever since the last reviews there has been no major shift on legislative change that impacts on Human Resource. Furthermore, the Auditor General of South Africa requires that such policies be tabled before Council.

**DISCUSSION**

Attached as **Annexure C.07** is the Human Resources Polices, Anti-Corruption and fraud prevention policy, Whistleblowing policy.

**RECOMMENDATIONS TO COUNCIL**

THAT the following Human Resources Policy **BE REVIEWED AND ADOPTED**;

<b>NO.</b>	<b>TITLE</b>	<b>CUSTODIAN(S) RESPONSIBLE PERSON</b>
1.	Anti-Corruption and fraud prevention policy	Corporate Services
2.	Whistle Blowing Policy	Corporate Services

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THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL  
STREET, PORT ALFRED.**

**NCA017/03/2024**

**REPORT DATED 22 MARCH 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL:  
DRINKING WATER QUALITY & WASTE WATER QUALITY MONITORING.**

**PURPOSE**

The purpose of this report is to brief and highlight to the members of Ndlambe Municipal Council the status of the drinking water quality within the jurisdiction of Ndlambe Municipality, for the month of February 2024 and March 2024.

**COMMENTS**

This report indicates a summary of Microbiological (health) with main focus on Escherichia coli (E. coli) which is an indicator of faecal pollution by warm blooded animals (often interpreted as human faecal pollution). E.coli is responsible for infectious diseases such as gastroenteritis, cholera, dysentery and typhoid fever after ingestion of contaminated water.

**DRINKING WATER QUALITY MONITORING**

**Water Quality Compliance Table - The table below shows results for bacteriological analysis.**

**E.coli (health) (count per 100 mL) for Ndlambe Municipality.**

Area	FEBRUARY 2024		MARCH 2024	
	Samples Complied	% Compliance	Samples Complied	% Compliance
<b>Ndlambe Municipality</b>	<b>19 / 20</b>	<b>95.0%</b>	<b>20 / 21</b>	<b>95.2%</b>
<b><u>Alexandria</u></b>	<b>3 / 3</b>	<b>100.0%</b>	<b>3 / 3</b>	<b>100.0%</b>
<b><u>Bathurst</u></b>	<b>0 / 1</b>	<b>0.0%</b>	<b>3 / 3</b>	<b>100.0%</b>
<b><u>Bushmans River</u></b>	<b>3 / 3</b>	<b>100.0%</b>	<b>3 / 3</b>	<b>100.0%</b>
<b><u>Cannon Rocks / Boknes</u></b>	<b>2 / 2</b>	<b>100.0%</b>	<b>2 / 2</b>	<b>100.0%</b>
<b><u>Kenton-on-Sea</u></b>	<b>2 / 2</b>	<b>100.0%</b>	<b>2 / 2</b>	<b>100.0%</b>
<b><u>Kleinemonde / Seafield</u></b>	<b>1 / 1</b>	<b>100.0%</b>	<b>1 / 1</b>	<b>100.0%</b>
<b><u>Port Alfred</u></b>	<b>8 / 9</b>	<b>87.5%</b>	<b>6 / 7</b>	<b>85.7%</b>

Complying samples indicates the number of samples complying with **SANS: Microbiological - Standard Limits** compared to the total number of samples collected in an area.

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Complying samples indicates the number of samples complying with **SANS: Microbiological - Standard Limits** compared to the total number of samples collected in an area.

The percentage compliance displayed is the percentage of all samples collected in the area falling within **SANS: Microbiological - Standard Limits**.

### **COMMENTS FROM OTHER DIRECTORATES**

The Department of Water and Sanitation initiated the Blue Drop Certification Programme in September 2008 with the objective, amongst others, of introducing key requirements for effective and efficient management of drinking-water quality by water-services institutions. It is the objective of the Municipality to have Blue Drop and Green Drop Certification. Due to budget challenges some of the requirements cannot be met at this stage.

The Directorate: Infrastructural Development is doing all the activities that do not require capital budget:

- Reports on the Integrated Regulatory Information System (IRIS) are submitted monthly;
- Integrated Regulatory Information System (IRIS) automatically calculates a percentage on the amount of samples loaded against the total number of samples required;
- Community Protection/Services is working closely with the directorate of Infrastructure Development, on water quality matters (i.e. purification and water quality monitoring);
- Classification of process controllers is in progress, and is on-going; and
- Operation and maintenance of municipal plants is on-going.

### **RECOMMENDATIONS TO COUNCIL**

THAT the report on drinking water quality within the jurisdiction of Ndlambe Municipality, for the month of February 2024 and March 2024 **BE NOTED**.

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**NCA018/03/2024**

**REPORT DATED 20 MARCH 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL:  
REPORT BY THE AUDIT AND PERFORMANCE COMMITTEE (APC) OF 21  
FEBRUARY 2024**

### **PURPOSE**

For Council to note and discuss the report from the Chairperson of the Audit and Performance Committee.

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THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL  
STREET, PORT ALFRED.**

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**BACKGROUND**

A Special Audit and Performance Committee meeting was held on the 21<sup>st</sup> February 2024 in Port Alfred. These Minutes will be submitted to Council once they are confirmed. This Special APC meeting was held to consider reports that were not previously available in the January 2024 APC meeting.

**Attendance**

All members of the APC were in attendance. In addition, the Municipal Manager [MM] together with some of the Directors and other relevant officials were in attendance. Cllr Venene (in his capacity as Chairperson of the BSC) and Cllr Nyumka (as Chairperson of MPAC) were also part of the meeting.

**Reports that were considered**

Report in terms of Section 52 (d) (Half - yearly financial report)  
 Report in terms of Section 72 (Half - yearly financial and performance report)  
 Draft Adjustment Budget  
 Audit Action Plan  
 Report on Overtime  
 Human Resource Plan and Organogram  
 Unaccounted water usage and loss of revenue  
 Progress on projects funded by Conditional grants  
 Internal Audit Reports

**Finance Reports**

The Section 52 (d) report for the period ending 31 December 2023 and the Section 72 report which covers the same period were discussed together. The information on both reports is largely the same.

The key issues that emanated from the discussions were

- The shortfall in property rates and service charges is a cause for concern
- The *other expenditure* being higher than the proportionate budget
- That the Debtors balance of R260m is too high and unacceptable and that R163m of this figure has been outstanding for more than a year
- The amounts owed by staff and councillors were also scrutinized
- That the Revenue Collection plan needs to consider a variety of actions that must be taken (eg. debt owed by public servants must be reported to the Provincial and National Governments, possible non- issuing of vehicle licences if the debt is not being serviced)
- Cash collections are pivotal – stressing the importance of a realistic and accurate cash flow statement
- The contention of the LM of its inability to leverage collections from areas serviced by Eskom
- The number of insurance claims and the apparent negligent actions resulting in losses. The MM was requested to develop a policy that deals with investigating

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each incident and institute action where employees are negligent. The MM was also requested to investigate and take action against the employees as a result of the payment made to Mr Tana

- Contracted services are very high with regards to the 6-month period of review
- Each of the projects funded by Conditional grants was scrutinized. It was stressed that implementation was key to prevent a loss of the grants; good implementation results in more funds being transferred to the LM, multi-year projects etc
- The MM and the Ndlambe team were commended for their proactiveness in securing conditional grants
- Concerns were raised with regards to the accuracy of the information in the PMS report that was not audited
- The MM was requested to address the weaknesses in Internal Controls as highlighted in the report (Water and electricity losses, Supply chain management, ICT security controls and governance).
- There was no information on the unauthorized, irregular and fruitless expenditure in the current year. More importantly, the number of such transactions must be reduced and every case even from the prior years must be investigated.

The MM was requested to deal with the matters as required.

#### Draft mid-year adjustment budget 2023/2024

The increase in the additional conditional grants was noted. It will undoubtedly add to the pressure on the Municipality to spend the money on time. It is very likely that rollovers would occur. Management was requested to ensure that key deliverables are achieved to ensure rollover requests succeed.

#### Overtime Report

The overtime reports were scrutinized in detail. It was accepted that certain overtime in the Infrastructure Department and Community Services Department cannot be avoided (e.g. cases of burst pipes, traffic accidents etc). It was highlighted that no payment should occur to those above the threshold limit. The APC recommended that

- Overtime in the Office of the MM, Corporate Services and Finance Departments and in certain Sections of the line Departments can easily be avoided
- The internal controls must be adhered to (e.g. pre- approval must be obtained)
- Management must curb abuse of overtime
- Directors must be very strict in exercising control in this matter and strategies must be developed to reduce overtime worked

#### Human Resource Plan and Reviewing the Organogram

The Director provided a background on the Reports. It was indicated that the LM must consider the incorporation of succession planning in the HR Plan to encourage continuity and retain its hard-working employees. The APC recommended that any vacancies in Revenue collection, PMU and SCM (strengthening internal controls) must be filled. The APC also indicated that the HR plan must be communicated to the employees.

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**Report on unaccounted water use and loss of revenue**

Whilst the APC appreciated the work of the Administration, it was felt that more could be done to reduce water and electricity losses. It was also expressed that councillors too can assist in this regard through their interaction with communities. For the long-term sustainability of Ndlambe the trend of losses must reduce.

**Audit Action Plan**

The AGSA submitted an Audit Opinion on the Annual Financial Statements, Annual Performance and on Compliance with applicable legislation. Ndlambe LM achieved an Unqualified Audit Opinion for the 2022/2023 financial year. In addition, the AGSA submitted a Management Report. The Management Report indicates the various weaknesses, shortcomings, and errors that the AGSA has identified. The Municipality is required to prepare an Audit Action Plan to address these findings.

Unfortunately, the responses on the Audit Action Plan are inadequate. The Committee resolved to refer the Audit Action Plan back to Management and a more comprehensive and complete response be provided for the next meeting. The Chairperson advised that he is willing to provide direction to the Internal Auditor on the nature / detail / type of responses that are expected.

**Internal Audit Reports**

Two reports were considered viz the Loss Control Review report and a Report on the Fleet Management. The deliberations of the Committee will be reflected in the Special APC minutes of the meeting of 21 February 2024. With regards to both reports the APC indicates that loss control and fleet management are not taken seriously. In fact, the Internal Auditors found many repeat findings. The Municipal Manager was advised to ensure that internal controls with regards to both areas were communicated to the employees and that the Directors and the MM act against employees who do not adhere to the controls.

Findings and actions must be reflected on the Internal Audit tracker and will be monitored by the APC.

**Report on implementation of APC resolutions**

Concern was expressed on the completeness of the Report and whether the comments were relevant to the resolution that was taken. Internal Audit was requested to attend to this matter.

**RECOMMENDATIONS TO COUNCIL**

THAT the report from the Chairperson of the Audit and Performance Committee BE NOTED.

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**AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING WILL BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

**NCA019/03/2024  
REPORT DATED 18 MARCH 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL:  
EXCHANGE OF ERF 1149 STATION HILL, PORT ALFRED IN LIEU OF ERF 370  
NKWENKWEZI TOWNSHIP: ESTATES SECTION**

**PURPOSE**

To solicit approval for the allocation of an alternative property in lieu of the property approved by Council, namely Erf 370 which is utilized as a soccer field.

**LEGISLATIVE COMPLIANCE & ADHERANCE TO POLICY FRAMEWORKS**

In accordance with legislation pertaining to the Municipal Finance Management Act, 2003; Nambe Municipality - Supply Chain Management Policy which derives from the Local Government: Municipal Finance Management Act (56/2003); Municipal Supply Chain Management Regulations and Municipal Asset Transfer Regulations.

**BACKGROUND**

Council at its Executive Committee meeting held on 25 May 2021, Resolution NCM007/05/2021, resolved inter alia that Erf 370 (570 m<sup>2</sup>) located in Mswela Street, Nkwenkwezi, zoned residential, and as depicted on Locality Plan No. ERF 370/NKWENKWEZI, ownership which vests in the Provincial Government – Eastern Cape under Title Deed No. T2346/2005, be reserved for Siphon Mjingwana, Identity No. 750225 5441 089 and Xoliswa Mjingwana, Identity No. 800620 0914 082 until such time as the property which forms part of the 923 properties donated by the above state of organ and accepted by Council, Resolution NCM014/10/2019 dated 31 October 2019, is transferred into the name of the Ndlambe Municipality

**DISCUSSION**

**Motion dated 16<sup>th</sup> of February 2018 from the Democratic Alliance**

-See Annexure-

In brief, it is stated that Erf 370 Nkwenkwezi has a rich football history and therefore concerns were raised by the residents of Emakhamangeni of the fencing off of the property. Furthermore, the property in question has since the 1970's been utilized by the

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youth to play soccer and for soccer competitions and therefore the residents would like it to remain for the purposes of playing soccer.

**RECOMMENDATIONS TO COUNCIL**

- a) THAT it **BE NOTED** that Council does not anticipate that the property shall be required for purposes of providing a basic municipal service as the necessary services already exist in the surrounding area.
- b) THAT Council Resolution NCM032/10/2023 dated 24 October 2023, concerning the Motion submitted by the Democratic Alliance to rescind Council Resolution No. NCM007/05/2021 dated 25<sup>th</sup> of May 2021 to reserve Erf 370 Nkwenkwezi Township, ownership which vests in the Provincial Government – Eastern Cape to be sold to S S Mjingwana and X Mjingwana as it could lead to probable legal litigation for the Ndlambe Municipality, **BE NOTED** and **APPROVED**.
- c) THAT it **BE APPROVED** that Erf 1149, (714 m<sup>2</sup>) situated in Hill Street, Station Hill, Port Alfred, zoned residential, and as depicted on Locality Plan No. ERF 1149/PORT ALFRED, ownership which vests in the Ndlambe Municipality vide Title Deed No. T55568/1995 be allocated to Siphon Simon Mjingwana, Identity No. 750225 5441 089 and Xoliswa Mjingwana, Identity No. 800620 0914 082 in exchange for Erf 370 (570 m<sup>2</sup>), Mswela Street, Nkwenkwezi Township, subject to the following conditions:-
  - i) The purchase price is R3 420.00 which has been settled towards Erf 370 Nkwenkwezi.
  - ii) The conveyancing costs associated with the transaction is borne by the municipality.
- d) THAT it **BE NOTED** that no suitable land is available in the township of Nkwenkwezi.
- e) THAT it **BE NOTED** that a municipal value of R82 000.00 is presently attached to Erf 1149 Station Hill, Port Alfred.
- f) THAT it **BE APPROVED** that the conveyancing costs relating to Erf 370 Nkwenkwezi be settled by the Municipality.
- g) THAT it **BE APPROVED** that Erf 370 Nkwenkwezi be only utilized for the purpose of playing soccer and the property be rezoned from Residential Zone 1 to Open Space Zone 1.

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**NCA020/03/2024**

**URGENT REPORT BY MUNICIPAL MANAGER**

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**NCA021/03/2024**

**CLOSURE**

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**OPEN NDLAMBE COUNCIL MEETING**  
**HELD ON THURSDAY, 28 MARCH 2024**

**DISCLOSURE OF INTEREST BY COUNCILLORS  
(SCHEDULE 1 OF MUNICIPAL SYSTEMS ACT)**

**ANNEXURE C.01**

# **NDLAMBE MUNICIPALITY**



## **DECLARATION OF INTEREST BY COUNCILLOR**

In accordance with Councillor's Code of Conduct Section 5(1)a, A Councillor must disclose to the Municipal Council or to any Committee of which that Councillor is a Member, any direct or indirect personal or private business interest that the Councillor or any Spouse, Partner or Business Associate of that Councillor may have in any matter before the Council or the Committee.

I, Councillor ..... declare that I recuse myself during the discussion of the following items:

.....  
.....  
.....

And I will recuse myself on the abovementioned items.

Signed at ..... on this ..... day of ..... 2024

.....  
Signature of Councillor

Witnesses:

1. .... Signature: .....

2. .... Signature: .....

**OPEN NDLAMBE COUNCIL MEETING**  
**HELD ON THURSDAY, 28 MARCH 2024**

**DISCLOSURE OF INTEREST BY MUNICIPAL  
STAFF MEMBERS  
(SCHEDULE 2 OF MUNICIPAL SYSTEMS ACT)**

**ANNEXURE C.02**

# NDLAMBE MUNICIPALITY



## DECLARATION OF INTEREST BY STAFF

In accordance with Code of Conduct for Municipal Members under Section 4 Personal Gain  
(1) a Staff Member of the Municipality may not:  
b) take a decision on behalf of the Municipality concerning a matter in which that Staff Member's Spouse, Partner or Business Associate, has a direct or indirect personal or private business interest.

I, ..... Identity Number .....

Staff Number ..... employed by Ndlambe Council as .....

Hereby declare that I have an interest on the following items:

.....  
.....  
.....

And I will recuse myself on the abovementioned items.

Signed at: ..... on this ..... day of ..... 2024

.....  
Signature of Staff

Witnesses:

1. .... Signature: .....

2. .... Signature: .....

**OPEN NDLAMBE COUNCIL MEETING**

**HELD ON THURSDAY, 28 MARCH 2024**

**MINUTES OF PREVIOUS OPEN NDLAMBE  
COUNCIL MEETING: 30 JANUARY 2024**

**ANNEXURE C.03**

**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 30 JANUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

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The notice of an open meeting of the Ndlambe Council held on Tuesday, 30 January 2024 at 10h00 in the Council Chambers, Campbell Street, Port Alfred **WAS TAKEN AS READ.**

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**PRESENT**

Councillor: A Marasi (In the Chair)

**Councillors:** KC Ncamiso, (Mayor) A. Bukani, S. T Dyakala, N. E. Haynes, W. Johannes, P. Y Kani, S. Kolosa, P. Khungwayo, T. Mbekela, Z. W. Myali, S. Melani, A Nyumka, M. Sweli, S. Venene, E. H. K. Walker, S. Zweni.

**Officials:** Municipal Manager, Directors: Financial Management, Corporate Services, Community / Protection Services.

Deputy Directors: Infrastructural Development (Alexandria), Manager: Local Economic Development, Manager: Human Resources, Manager: Town Planning, Acting Manager: Integrated Development Plan, Manager: Supply Chain Management Unit, Manager: Internal Audit Unit, Manager: Administration,

Secretariat: Committee Administrator.

**By Invitation**

Chairperson: Audit and Performance Committee: Mr T Pillay

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**NCM001/01/2024**

**OPENING**

The meeting was officially opened by the Speaker, Councillor A Marasi, he called upon the Director: Community and Protection Services, Mrs N Booyesen–Willy to open the meeting with a short prayer, which was duly done.

At this stage, after the opening prayer, Councillor X Runeli raised a concern to Council regarding the attendance of a Journalist from the Announcer, Mr Jon Houzet; Councillor Runeli stated that Mr Houzet should be banned from attending Council meetings due to the racial comments/insults made by Mr Houzet on social media. Further, Councillor Runeli is unhappy about the incorrect narrative Mr Houzet writes about Council issues that are discussed during Council meetings. Councillor Runeli also suggested that Mr Houzet should make a presentation to the Office of the Speaker and state which body he represents, which regulates his newspaper, in order that he be reported to said body, similar to other media houses who are regulated e.g Talk of the Town.

**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 30  
JANUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET,  
PORT ALFRED.**

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Councillor S Venene opposed the request from Councillor X Runeli and further stated that, Journalists have a freedom of speech as stated in the Constitution of the Country and they are supposed to be subjective and tell a story as it is. Councillor Venene also stated that if there is any transgression, there is a legislative framework which governs it and if a Councillor feels that what is published is not aligned with the constitution of this country, there are institutions where the matter can be reported, particularly if the articles are not satisfactory. Councillor Venene further stated that Council should not entertain what Councillor Runeli has proposed as it would be a direct violation democracy of South Africa.

The Speaker concurred with Councillor Venene and further stated that Council should allow the Announcer to attend the Council meeting as invited by the Municipality. He advised that Councillor Runeli and other Councillors should observe the conduct of the said Journalist and he should be reported if there is something to report him on.

Councillor M Mgweba supported Councillor Runeli on his statement and further stated that The Announcer should not attend Council meetings until he presents his regulative body to the office of the Speaker.

Councillor Runeli further emphasized what he had presented together with what Councillor Mgweba has stated. He proposed for Council to vote on the matter, which was opposed by the Speaker.

***At this stage, time being 10:15, Councillors X Runell and M Mgweba left the Council Chambers and did not attend the proceeding of Council dated, 30 January 2024.***

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**NCM002/01/2024**

**APPLICATION FOR LEAVE OF ABSENCE**

**3/2/4**

**COUNCIL RESOLVED**

1. THAT Leave of Absence BE GRANTED to Councillor N Memani for the meeting held on 30 January 2024.
2. THAT it BE NOTED that the Mayor, Councillor K Ncamiso connected virtually for the meeting held on 30 January 2024.
3. THAT it further BE NOTED that Councillor E Walker requested to be recused at 12:00 to attend another meeting with the Department of Education.

\*\*\*

**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 30  
JANUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET,  
PORT ALFRED.**

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**NCM003/01/2024**

**OFFICIAL ANNOUNCEMENTS BY THE SPEAKER**

**3/2/1**

None

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**NCM004/01/2024**

**REPORTS OF SPEAKER IN TERMS OF RULES**

**10 (1) and 87 (4)**

None.

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**NCM005/01/2024**

**DISCLOSURE OF INTEREST BY COUNCILLORS (SCHEDULE 1 OF MUNICIPAL  
SYSTEMS ACT)**

None

\*\*\*

**NCM006/01/2024**

**DISCLOSURE OF INTEREST AND BENEFITS BY MUNICIPAL STAFF MEMBERS  
(SCHEDULE 2 OF MUNICIPAL SYSTEMS ACT)**

None.

\*\*\*

**NCM007/01/2024**

**REPORTS RECEIVED BY THE SPEAKER**

None.

**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 30.  
JANUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET,  
PORT ALFRED.**

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**NCM008/01/2024**

**MOTIONS OF SYMPATHY AND CONGRATULATIONS BY THE SPEAKER**

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**NCM009/01/2024**

**MOTIONS OF SYMPATHY AND CONGRATULATIONS BY OTHER COUNCILLORS**

\*\*\*

**NCM010/01/2024**

**DEPUTATIONS AND INTERVIEWS**

**1. PRESENTATION FROM AUDITOR GENERAL OF SOUTH AFRICA**

**COUNCIL RESOLVED**

- THAT a presentation from Auditor General of South Africa BE NOTED.
- THAT it BE NOTED that Ndlambe Municipality obtained an unqualified Audit opinion.
- THAT it BE NOTED that the report from Auditor General of South Africa was appreciated by Council.

**2. PRESENTATION FROM SOMYALI ELECTRICAL**

**COUNCIL RESOLVED**

- THAT the presentation from Somyali Electrical on training of under privileged youth from Ndlambe Municipal areas BE NOTED.
- THAT it BE NOTED that the presentation was appreciated and supported by Council.
- THAT it further BE NOTED that the Municipal Manager discuss other details on how best the Municipality can assist in this program.

\*\*\*

**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 30  
JANUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET,  
PORT ALFRED.**

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**NCM011/01/2024**

**COMMUNICATION BY THE MAYOR**

None.

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**NCM012/01/2024**

**MINUTES OF PREVIOUS FULL OPEN NDLAMBE COUNCIL MEETING: 08  
DECEMBER 2023**

**3/2/1**

That the Minutes of the Full Open Ndlambe Council meeting held on 08 December 2023, Resolutions NCM001/12/2023 to NCM024/12/2023, a copy which appears as **Annexure C.03** BE CONFIRMED.

\*\*\*

**NCM013/01/2024**

**REPORT ON IMPLEMENTATION OF COUNCIL RESOLUTIONS**

Implementation of the Council Resolutions, a copy which appears as **Annexure C.04**, BE CONFIRMED AND UPDATED.

\*\*\*

**NCM014/01/2024**

**REPORT DATED 16 JANUARY 2024 FROM THE MUNICIPAL MANAGER TO  
COUNCIL: IDP ASSESSMENT OUTCOMES AND MEC COMMENTS**

**COUNCIL RESOLVED**

1. THAT the IDP Assessment outcomes and MEC Comments for the 2023/2024 financial year, in which the Municipality received a rating of a 'HIGH' BE NOTED.
2. THAT the level of performance on KPA2: Service Delivery and Infrastructure Planning be prioritized and improved from medium to high by the Administration.

**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 30  
JANUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET,  
PORT ALFRED.**

3. THAT the filling of the position of the Manager; IDP be fast tracked by the Municipal Manager.

\*\*\*

**NCM015/01/2024**

**REPORT DATED 17 JANUARY 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL:  
APPROVAL OF ALLOCATED BENEFICIARIES FOR THORNHILL 524 SUBSIDY  
HOUSES.**

**COUNCIL RESOLVED**

1. THAT the Thornhill 524 Beneficiary list BE NOTED.
2. THAT it BE NOTED that allocation of beneficiaries was based on following:
  - i) The Aged 60 years and above – 40%
  - ii) Beneficiaries between 35 to 59 – 20%
  - iii) Informal and Hazadous areas – 20%
  - iv) Disabled, military veterans and Child headed homes 20%

\*\*\*

**NCM016/01/2024**

**REPORT DATED 22 JANUARY 2024 FROM THE MUNICIPAL MANAGER TO  
COUNCIL: LGSETA GRANT ADJUSTMENT BUDGET: 2023/2024 FINANCIAL YEAR**

**COUNCIL RESOLVED**

THAT the LGSETA budget of Corporate Services BE ADJUSTED as follows:-

<b>LINE ITEM VOTE</b>	<b>BUDGET</b>	<b>VARIANCE</b>	<b>ADJUSTED BUDGET</b>
- LGSETA TRAINING	R0	R24 291.72	R180 789.26
		R156 497.54	

\*\*\*

**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 30  
JANUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET,  
PORT ALFRED.**

**NCM017/01/2024**

**REPORT DATED 23 JANUARY 2024 FROM THE MUNICIPAL MANAGER TO  
COUNCIL: REPORT ON REVIEW OF HUMAN RESOURCES POLICIES: RELOCATION  
POLICY AND SUBSTANCE ABUSE POLICY 2024**

**COUNCIL RESOLVED**

1. THAT the following Human Resources Policy **BE REVIEWED AND ADOPTED**;

<b>NO.</b>	<b>TITLE</b>	<b>CUSTODIAN(S) RESPONSIBLE PERSON</b>
1.	Relocation Policy	Corporate Services
2.	Substance Abuse Policy	Corporate Services

2. THAT Section 6.4 of the Relocation policy under heading Internal Transfer be amended to include the **“re – imbursement of employees for in between Units”**.

\*\*\*

**NCM018/01/2024**

**REPORT DATED 22 JANUARY 2024 FROM THE MUNICIPAL MANAGER –  
MUNICIPAL TO COUNCIL: GRADE 12 INTERVENTION / SCHOOL ASSISTANCE  
PROGRAMMES**

**COUNCIL RESOLVED**

1. THAT the report on the matric results and the role played by Ndlambe Municipality by means of rendering financial assistance to these School and their learners **BE NOTED**.
2. THAT it **BE NOTED** that for the third year in a row, Kuyasa Combined School produced top – performing achievers in the Sarah Baartman region.
3. THAT it **BE NOTED** that Ndlambe Municipality awarded R15 000 each to the two top – performing matriculants from Kuyasa Combined School for their outstanding performance.

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**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY; 30 JANUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

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**NCM019/01/2024**

**REPORT DATED 22 JANUARY 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL: DRAFT ANNUAL REPORT 2022/2023**

**COUNCIL RESOLVED**

1. THAT the Draft Annual Report for the 2022/2023 financial year BE NOTED and be sent to the Municipal Public Accounts Committee (MPAC), relevant government departments and the Auditor General of South Africa as stipulated by both the Local Government: Municipal Systems Act (No: 32 of 2000) and the Local Government: Municipal Finance Management Act (No: 56 of 2003).
2. THAT the Audit Report submitted by the Auditor General to Ndlambe Municipality for the financial year ended 30 June 2023 BE NOTED.
3. THAT the annual financial statements of the Ndlambe Local Municipality for the financial year ending 30 June 2023 submitted to the Auditor – General SA for auditing BE NOTED.

\*\*\*

**NCM020/01/2024**

**REPORT DATED 15 JANUARY 2024 FROM THE MUNICIPAL MANAGER TO COUCIL: ECAWA MUSIC FESTIVAL REPORT HELD ON 24 DECEMBER 2024**

**COUNCIL RESOLVED**

THAT the impact report for the ECawa Music Festival held on the 24<sup>th</sup> December 2024 BE NOTED.

\*\*\*

**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 30 JANUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

**NCM021/01/2024**

**REPORT DATED 15 JANUARY 2024 FROM THE MAYOR TO COUCIL: MID – YEAR BUDGET AND PERFORMANCE ASSESSMENT REPORT.**

**COUNCIL RESOLVED**

THAT the Budget and Performance Assessment Report from the Mayor for the period of 01 July 2023 to 31 December 2023 BE NOTED.

\*\*\*

**NCM022/01/2024**

**REPORT DATED 15 JANUARY 2024 FROM THE MUNICIPAL MAYOR TO COUCIL: QUARTELY SUPPLY CHAIN REPORT**

**COUNCIL RESOLVED**

1. THAT the supply chain quarterly report for the period 01 October 2023 to 31 December 2023 of the 2023/24 financial year from the Mayor BE NOTED.
2. THAT the potential Irregular Expenditure reported for the period 01 July to 31 October 2023 BE REFERRED to the Municipal Public Accounts Committee (MPAC) for further investigation and appropriate action.

\*\*\*

**NCM023/01/2024**

**REPORT DATED 15 JANUARY 2024 FROM THE MUNICIPAL MAYOR TO COUCIL: REVIEW OF SUPPLY CHAIN MANAGEMENT POLICY.**

**COUNCIL RESOLVED**

THAT the amendments in the Supply Chain Management Policy BE APPROVED AND ADOPTED.

\*\*\*

**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 30 JANUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

**NCM024/01/2024**

**REPORT DATED 15 JANUARY 2024 FROM THE MUNICIPAL MAYOR TO COUCIL:  
SECTION 52(D) QUARTERLY REPORT FOR THE QUARTER ENDING 31<sup>ST</sup>  
DECEMBER 2023**

**COUNCIL RESOLVED**

THAT the second quarter budget statement performance report **BE NOTED**.

\*\*\*

**NCM025/01/2024**

**REPORT DATED 15 JANUARY 2024 FROM THE MUNICIPAL MAYOR TO COUCIL:  
REPORT BY AUDIT AND PERFORMANCE COMMITTEE TO COUNCIL 30 JANUARY  
2024**

**COUNCIL RESOLVED**

THAT the report by the Chairperson of the Audit and Performance Committee (APC) to Council 30 January 2024 which included the following updates; Attendance, Schedule of meetings , Minutes of the two Special meetings (August 2023) to consider the AFS of the year ended 30 June 2024, Report of the Auditor General, Accounting Officers updated Report and Litigations Register and Report, Finance Reports, Performance Management, Risk Management, Corporate Services, Technical Services, Internal Audit Reports, ICT Reports, Additional matters **BE NOTED**.

\*\*\*

**NCM026/02/2024**

**URGENT REPORT BY MUNICIPAL MANAGER**

None.

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**NCM027/02/2024**

**CLOSURE**

The meeting was officially closed at 12:30

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**OPEN NDLAMBE COUNCIL MEETING**  
**HELD ON THURSDAY, 28 MARCH 2024**

**MINUTES OF PREVIOUS SPECIAL OPEN NDLAMBE  
COUNCIL MEETING: 27 FEBRUARY 2024**

**ANNEXURE C.04**

**MINUTES OF A SPECIAL OPEN NDLAMBE COUNCIL MEETING HELD ON, TUESDAY, 27 FEBRUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, PORT ALFRED.**

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The Notice of a Special Open Ndlambe Council meeting held on Tuesday, 27 February 2024 at 10h00 in the Council Chambers, Port Alfred **WAS TAKEN AS READ.**

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**PRESENT**

Councillor: A Marasi (In the Chair)

**Councillors:** K Ncamiso (Mayor) A. Bukani, S. T Dyakala, N. E. Haynes, W. Johannes, P. Y Kani, S. Kolosa, P. Khungwayo, T. Mbekela, N. F. Memani(Attended Virtually), M. Mgweba, Z. W. Myali, S. Melani, A Nyumka, X. Runeli, M. Sweli, S. Venene, E. H. K. Walker, S. Zweni.

Municipal Manager, Directors: Financial Management, Corporate Services, Infrastructural Development, Community / Protection Services.

Deputy Directors: Infrastructural Development (Port Alfred and Alexandria), Community and Protection Services, Manager: Human Resources.

Secretariat: Committee Administrator.

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**SNCM001/02/2024**

**OPENING**

The meeting was officially opened by the Speaker, Councillor A Marasi, he called Mrs N Booyesen-Willy to open with a prayer, which was duly done.

\*\*\*

**SNCM002/02/2024**

**APPLICATION FOR LEAVE OF ABSENCE**

**3/2/4**

**COUNCIL RESOLVED**

THAT it BE NOTED that Councillor N Memani attended the Special Council meeting virtually.

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**MINUTES OF A SPECIAL OPEN NDLAMBE COUNCIL MEETING HELD ON;  
TUESDAY, 27 FEBRUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, PORT  
ALFRED.**

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**SNM003/02/2024**  
**OFFICIAL ANNOUNCEMENTS BY THE SPEAKER**  
**3/2/1**

None

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**SNM004/02/2024**  
**COMMUNICATION BY THE MAYOR**  
**3/2/1**

None.

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**SNM005/02/2024**  
**DISCLOSURE OF INTEREST BY COUNCILLORS (SCHEDULE 1 OF MUNICIPAL  
SYSTEMS ACT)**

None.

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**SNM006/02/2024**  
**DISCLOSURE OF INTEREST AND BENEFITS BY MUNICIPAL STAFF MEMBERS  
(SCHEDULE 2 OF MUNICIPAL SYSTEMS ACT)**

None.

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At this stage; Councillor X Runeli raised a concern regarding the correspondence that was submitted to the Office of the Speaker, namely correspondence requesting the Office of the Speaker to call a Special meeting to address the issues of the water crisis in Nemato.

The Speaker responded to Councillor Runeli by expressing his apology for not including the matter of the said water challenges in the Special Council agenda dated 27 February 2024, due to the fact that the Municipal Manager was on leave when the request was submitted to the Office of the Speaker. Although the Speaker he had engagements with the Acting Municipal Manager on the matter, he further proposed that an information sharing between Administration and Councillors be organized to discuss the matter further.

**MINUTES OF A SPECIAL OPEN NDLAMBE COUNCIL MEETING HELD ON,  
TUESDAY, 27 FEBRUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, PORT  
ALFRED.**

Councillor Runeli further expressed his disappointment in the fact that the item on the water crisis was not included in the Special Agenda, even though it was requested to the Office of the Speaker before the item submission of the Adjustment Budget.

Council S Venene concurred with Councillor Runeli and emphasized that the request made by Councillor Runeli to the office of the Speaker should have been taken seriously and included in the Special Council agenda as matter of urgency.

The Speaker concluded by stating that an information sharing between Administration and Councilors organized by the Municipal Manager, and the date and time be communicated in due cause.

\*\*\*

**SNCM007/02/2024**

**REPORT DATED 22 FEBRUARY 2024 FROM THE MUNICIPAL MANAGER TO  
COUNCIL: MIG GRANT PROJECTS ADJUSTMENT BUDGET**

**COUNCIL RESOLVED**

1. THAT the MIG revised budget BE ADJUSTED as follows:

<b>Project Description</b>	<b>Original Budget</b>	<b>Variance</b>	<b>Adjusted Budget</b>
Thornhill Link Sanitation Services - Portion 1: Pump station and pumping mains	R 8 057 125.00	-R 7 147 995.39	R 909 129.61
Upgrading of kwanokqubela main road	R 711 793.00	R 588 207.00	R 1 300 000.00
Upgrading of Solomon Mahlangu Road phase 2	R 2 831 602.00	-R 402 928.68	R 2 428 673.32
Upgrading of Mamityi Gidana Sportsfield	R 10 959 937.00	R 0.00	R 10 959 937.00
Upgrading of Xhanti street Bathurst	R 4 891 244.00	R 109 563.32	R 5 000 807.32
Upgrading of Zola street in Bathurst	R 1 506 499.00	R 773 936.60	R 2 280 435.60
Upgrading of Protea Crescent in Station- hill	R 0.00	R 3 342 217.15	R 3 342 217.15
Upgrading of Mjuza Street in Marselle	R 0.00	R 2 000 000.00	R 2 000 000.00
PMU 5% ADMIN	R 1 597 800.00	R 0.00	R 1 597 800.00
<b>TOTAL</b>	<b>R 30 556 000.00</b>	<b>R - 737 000.00</b>	<b>R 29 819 000.00</b>

**MINUTES OF A SPECIAL OPEN NDLAMBE COUNCIL MEETING HELD ON,  
TUESDAY, 27 FEBRUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, PORT  
ALFRED.**

2. THAT it BE NOTED that this budget be included on the mid-year term adjustment budget for 2023/24 Financial year.

\*\*\*

**SNCM008/02/2024**

**REPORT DATED FEBRUARY 2024 FROM THE MAYOR TO COUNCIL: ADJUSTMENT BUDGET 2023/2024**

**COUNCIL RESOLVED**

1. THAT the capital adjusted budget of R169,766,000, (2025 R60,082,000) and (2026 R62,157,000) funded by external funding outlined in Table B5 – Adjusted Budgeted Capital Expenditure by vote, standard classification and funding source and the overall capital expenditure of R186,052,000 **BE APPROVED.**
2. THAT the operating adjusted budget for the 2023/2024 financial year as presented in Table B4 – Adjusted Budgeted Financial Performance (revenue and expenditure) reflecting the operating deficit of -R11,126,000, (2025 -R4,503,000) and operating surplus of (2026 R5,081,000) **BE APPROVED.**
3. THAT the adjusted financial position for the 2023/2024 financial year as presented in Table B6- Adjusted Budgeted Financial Position reflecting the community wealth/equity of R1 500,772 000, (2025 R 1,425, 879,000) and (2026 R1,520,354,000) **BE APPROVED.**
4. THAT the adjusted cash flow for the 2023/2024 financial year as presented in Table B7- Adjusted Budgeted Cash Flow reflecting a projected positive cash and cash equivalent at the end of 2023/2024 financial year of R83,040,000, (2025 R19,597,000) and (2026 R41,328,000) **BE APPROVED.**
5. THAT the revised budget related budget related policies for 'Virement policy and Creditors, Councillor's and Staff Payment policy **BE APPROVED.**
6. THAT the region (Wards) where the projects are allocated on page 6 and 7 of the agenda be amended as corrected by Councillors.

\*\*\*

**SNCM009/02/2024**

**REPORT DATED 22 FEBRUARY 2024 FROM MUNICIPAL MANAGER TO COUNCIL:  
REPORT ON THE NDLAMBE ELECTRICITY SERVICE: RINGFENCING, COST OF  
SUPPLY AND TARIFF STRUCTURE STUDY – 2022/2023 COST**

**COUNCIL RESOLVED**

- (a) THAT it BE NOTED that the process changes in the submission requirements from NERSA regarding the annual tariff increase application.

**MINUTES OF A SPECIAL OPEN NDLAMBE COUNCIL MEETING HELD ON,  
TUESDAY, 27 FEBRUARY 2024 AT 10H00 IN THE COUNCIL CHAMBERS, PORT  
ALFRED.**

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- (b) That it BE NOTED that the proposed structural changes are supported by Council for inclusion in the public participation process as part of the 2024/25 proposed budget and tariffs.
- (c) THAT it BE NOTED that the submission of the Cost of Supply study to NERSA by 01 March 2024 together with Budget projections for the next three years as per the NERSA request BE SUPPORTED.
- (d) THAT It BE NOTED that the outcomes of the cost of supply study and the proposed structural changes in the tariff structure as well as the impact of the structural changes on the various customer categories
- (e) THAT the following be brought back to council:
- The final report after final changes have been made
  - Approval /feedback from NERSA
  - Feedback from the public participation program
  - Detailed consumer impact illustrations
  - A proposed phased in plan.
  - A proposed implementation strategy.
- (f) THAT it BE NOTED that only then will Council make a final decision on actual implementation of the proposed cost-based tariffs.

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**SNCM010/02/2024**  
**URGENT REPORTS BY THE MUNICIPAL MANAGER**

None

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**SNCM011/02/2024**  
**CLOSURE**

The meeting was officially closed at 11:20

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**OPEN NDLAMBE COUNCIL MEETING**  
**HELD ON THURSDAY, 28 MARCH 2024**

**REPORT ON IMPLEMENTATION OF COUNCIL  
RESOLUTIONS**

**ANNEXURE C.05**



**REPORT ON IMPLEMENTATION OF COUNCIL RESOLUTIONS – MARCH 2024**

NO.	ITEM NO.	ITEM (HEADING)	RESPONSIBLE PERSON	REPORT / COMMENTS SUBMITTED BY THE RELEVANT DIRECTOR	TIMEFRAME TO BE INSERTED BY DIR.
<b>12 DECEMBER 2016</b>					
1.	NCM02 8/ 12/2016	<p>Report Dated 5 December 2016 from the Municipal Manager to Council: <b>Non Access to Erven in Cannon Rocks as a Result of Sand on Roadway.</b></p> <p><b><u>COUNCIL RESOLVED</u></b></p> <ol style="list-style-type: none"> <li>1. That the Directorate considers the presentation made by the Department of Environmental Affairs on the Best Practise.</li> <li>2. <b>THAT it BE NOTED that timeframes to this item must be attached.</b></li> </ol> <p><b><u>Previous progress</u></b> During the Ndlambe Management Crusade in November 2023, Management visited the affected sites in Cannon Rocks. It is our view that Councilors be taken to the site in question so that the issue can be</p>	Community & Protection Services	<p><b><u>PROGRESS TO DATE:</u></b></p> <p>We have engage with the Municipal lawyers to write to the owners of the affected Erven informing them that it is not possible for them to build on their properties.</p>	Ongoing

		<p>discussed and brought to conclusion. A site meeting be arranged with Councilors.</p> <p><b><u>COUNCIL RESOLVED</u></b></p> <p>THAT a new item be brought to Council with a detailed report including the site visit made by Councilors in December 2023 at Cannon Rocks in order for Council to conclude on the matter.</p>			
<p><b>30 AUGUST 2022</b></p>					
<p>2.</p>	<p>NCM030/ 08/2022</p>	<p>Report dated 18 August 2022 from the municipal manager to council: <b>appointment of ndlambe municipality as an implementing agent for quick wins projects previously implemented by amatola water board</b></p> <p><b><u>COUNCIL RESOLVED</u></b></p> <ol style="list-style-type: none"> <li>1. THAT the intention of the department to hand over the Amatola projects to the Nidambe Municipality <b>BE ACCEPTED.</b></li> <li>2. THAT it <b>BE NOTED</b> that an item will be tabled to Council once all above processes have been completed.</li> <li>3. THAT it <b>BE NOTED</b> that timeframes to this item must be attached.</li> </ol> <p><b><u>PREVIOUS PROGRESS:</u></b></p> <p>Contract 14 and 15 Contractor has been appointed on</p>	<p>Infrastructural Development</p>	<p><b><u>PROGRESS TO DATE:</u></b></p>	

	<p>the 15<sup>th</sup> of November 2023.</p> <p>Brackish RO plant will be advertised on the 1<sup>st</sup> of December 2023.</p> <p><b><u>COUNCIL RESOLVED</u></b></p> <ul style="list-style-type: none"> <li>• THAT the assessment report for Contract 14 and 15 be made available to Councillors.</li> <li>• THAT the Project Steering Committee (PSC) be established for the contract 14 and 15 project.</li> </ul>			
<p><b>30 MARCH 2023</b></p>				
<p>3. NCM016/03/2023</p>	<p>Report Dated 15 March 2023 From The Municipal Manager To Council: <b>On-Site Verification Of Municipal Buildings And Land Leased to Various Tenants as Stated On The Current Lease Schedule: Estates Section.</b></p> <p style="text-align: center;"><b><u>COUNCIL RESOLVED</u></b></p> <ol style="list-style-type: none"> <li>1. THAT it <b>BE NOTED</b> that this verification exercise will now be extended to determine whether any other municipal buildings or vacant land is used by any other tenants without the necessary lease agreements being in place.</li> <li>2. THAT a report on the progress made by the service provider which stipulates what has been done</li> </ol>	<p>Infrastructure/ Estate</p>	<p><b><u>PROGRESS TODATE:</u></b></p> <p>Ongoing. The Estates Section is working the Service Provider appointed by Finance Department to do asset verification for the municipality</p>	

				<p>thus far be submitted in the next Council meeting.</p> <p><b><u>PREVIOUS PROGRESS:</u></b></p> <p>The service provider has been appointed for a period of years and are busy verifying the municipal asset register determine whether all the properties thereon vests in the Ndlambe Municipality.</p>			
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**OPEN NDLAMBE COUNCIL MEETING**  
**HELD ON THURSDAY, 28 MARCH 2024**

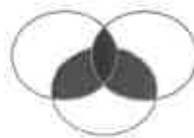
**REPORT DATED 12 MARCH 2024 FROM THE  
MUNICIPAL MANAGER TO COUNCIL: LOCAL  
GOVERNMENT SERVICES CHARTER**

**ANNEXURE C:06**



**SOUTH AFRICAN LOCAL GOVERNMENT  
BARGAINING COUNCIL**

# **LOCAL GOVERNMENT SERVICE CHARTER**



**SALGA**  
*South African Local Government Association*



**The Service Charter Preamble**

We, the parties in the South African Local Government Bargaining Council (SALGBC) representing the Employees and Employers in local government:

***Affirm*** our commitment to upholding the values and principles of public administration enshrined in Section 152 of the Constitution and other laws, policies and frameworks.

***Uphold*** the Constitutional responsibility of the local government sphere as clearly articulated in the Bill of Rights to deliver services to the citizenry.

***Note*** the continued efforts of the State and organized local government in building a developmental State that is inclined towards addressing the needs of the majority of the population particularly those that had been historically disadvantaged.

***Acknowledge*** the service delivery challenges in local government.

***Equally*** concerned about the increasing manifestation of corruption in local government and the negative impact it has on the socio-economic and political landscape of the country.

***Believing*** in the rich history of our democratic dispensation, which entrenches values and principles of human rights, social, economic and political rights.

***Motivated*** by the proven value of collaboration in building a new South Africa, and encouraged by the willingness of all the parties in working towards a common goal of finding mutually-beneficial solutions to our common challenges.

**Commit ourselves to this Charter.**

**i. Objectives of the Service Charter**

**1.1 The Charter seeks to:**

- 1.1.1 Improve service delivery programmes;**
- 1.1.2 Reinforce the partners' commitment to service delivery improvement for the benefit of all citizens;**
- 1.1.3 Clarify the rights and obligations of each of the parties;**
- 1.1.4 Acknowledge and reward excellent performance;**
- 1.1.5 Professionalise and encourage excellence in local government;**
- 1.1.6 Enhance performance;**
- 1.1.7 Facilitate a process to define service standards in local government;**
- 1.1.8 Strengthen processes and initiatives that prevent and combat corruption;**
- 1.1.9 Facilitate social dialogue among the partners;**
- 1.1.10 Help our municipalities rise to the challenge of treating citizens with dignity and meeting their expectations and demands equitably and fairly; and**
- 1.1.11 Ensure effective, efficient and responsive municipalities.**

**ii. Scope of the Charter**

**2.1 The Charter shall apply to SALGA and its member municipalities as the Employer and the recognised trade unions within local government and the employees who:**

- 2.1.1 Are employed by municipalities; and**
- 2.1.2 Fall within the registered scope of the SALGBC.**

**2.2 This Charter shall also apply to Councillors of all municipalities.**

**iii. Definition of the Service Charter**

**3.1 This Service Charter is a commitment between the SALGA, IMATU and SAMWU. It is a written and signed document, which sets out the partners' roles and responsibilities to improve performance, enhance and fast track the delivery of services to improve the lives of our people.**

**3.2 It is a document that enables service beneficiaries to understand what they can expect from municipalities and will form the basis of engagement between SALGBC parties and citizens or organs of civil society.**

**3.3 This Service Charter is not a condition of service and it shall not be interpreted or applied as to vary, amend, terminate, or, in any other manner, affect the conditions of service of municipal employees, nor does it constitute a collective agreement.**

**PARTIES TO THE COUNCIL AGREE TO A SERVICE CHARTER ON THE FOLLOWING TERMS:**

**Article 1**

**Purpose of the Charter**

**This Charter shall:**

- 1.1 Define the services offered by local government to the citizens of South Africa;
- 1.2 Outline the service standards that underpin the services offered by local government;
- 1.3 Register the commitments by SALGA and its member municipalities, as the Employer, towards local government employees; and
- 1.4 Specify commitments by local government employees towards the citizens.

**Article 2**

**The parties to this Charter**

- 2.1 SALGA in its capacity as an employers' organization representing the 278 municipalities within the Republic of South Africa.
- 2.2 IMATU and SAMWU in their capacity as the recognized trade unions in the Local Government Sector.

**Article 3**

**The Services Provided by Local Government**

The services provided by the Local Government include, among others, the following:

- 3.1 Special programmes on transversal issues dealing with Children, Youth, Disability, Elderly, HIV and AIDS matters;
- 3.2 Health Services
- 3.3 Safety and Security
- 3.4 Human Settlements
- 3.5 Human Development
- 3.6 Social Welfare Services
- 3.7 Water and Sanitation;
- 3.8 Energy;
- 3.9 Waste Removal;
- 3.10 Transport, Roads, Maritime and Aviation;
- 3.11 Provision of Driver and Vehicle Licenses;
- 3.12 Environmental Management and Protection;
- 3.13 Promotion of Sports, Arts and Culture;
- 3.14 Advancement of the interests of women, children and people living with disabilities;
- 3.15 Economic Development;
- 3.16 Budget Management;
- 3.17 Governance and Inter-Governmental Relations;

- 3.18 Cooperative Governance and Traditional Affairs;
- 3.19 Tourism; and
- 3.20 Communication of Local Government programmes.

**Article 4**

**Service Standards**

- 4.1 There shall be clearly defined service standards for all our municipalities.
- 4.2 All municipalities must, as a minimum, meet the following service standards:
  - 4.2.1 Serve citizens promptly and courteously at all service delivery points;
  - 4.2.2 Provide friendly and helpful service;
  - 4.2.3 Help service users make the right choices in accessing services;
  - 4.2.4 Provide appropriate signage and information desks;
  - 4.2.5 Public servants must wear name tags for easy identification;
  - 4.2.6 Answer calls promptly;
  - 4.2.7 Ensure shorter queues at service delivery points;
  - 4.2.8 Respond to queries and complaints promptly;
  - 4.2.9 Respond to mail and email correspondence promptly;
  - 4.2.10 Resolve customer complaints fairly, consistently and promptly; and
  - 4.2.11 Encourage service users to make suggestions on how to better the services offered.
- 4.3 All municipalities must visibly display Batho Pele Call Centre and the Anti-Corruption Hotline numbers.
- 4.4 No employee shall be bound by any duty or obligation set forth herein where such duty or obligation is not possible within the level of seniority, occupational category and / or available resources of the employee.
- 4.5 Municipalities shall ensure that all employees who are covered by this charter are provided with the necessary training and resources required to carry out the terms of this Charter.

**Article 5**

**Commitments by the SALGA and Municipalities as the Employers**

Municipalities commit to the provisions enshrined in Section 23 of the Constitution, the Labour Relations Act and other applicable labour legislation, to:

- 5.1 Create an enabling environment within the provisions of available resources for municipal employees to perform their duties;
- 5.2 Implement conditions of service that fairly reward municipal employees;
- 5.3 Maintain a disciplined local government sector;
- 5.4 Develop a feedback mechanism that will allow the public to compliment or raise complaints about the conduct and attitudes of municipal employees and the quality, time lines and efficacy of the services they provide;

- 5.5 Facilitate a rewards and recognition system commensurate with the values and principles of the Charter that focuses on individuals and teams;
- 5.6 Introduce modern and innovative procedures and systems for the delivery of services;
- 5.7 Implement information and communication technology policies and programme to support and improve the delivery of services;
- 5.8 Implement governance systems that optimise management of resources, risk management and audit management;
- 5.9 Simplify procedures and ease formalities related to access and delivery of services;
- 5.10 Implement service delivery improvement programmes;
- 5.11 Introduce systems and processes that facilitate citizens' access to municipal services;
- 5.12 Institute local government accountability and integrity systems to promote value-based societal behaviour and attitudes as a means of preventing corruption;
- 5.13 Recognise that municipal employees have the right to create or belong to associations, trade unions or any other group as provided for by applicable laws;
- 5.14 Recognise that recognised trade unions, within applicable laws, shall have the right to engage in collective bargaining;
- 5.15 Membership or non-membership of a political party shall not be used as criteria for appointment in the local government sector;
- 5.16 Provide adequate and continuous training with the duties and obligations of municipal employees as set forth herein; and
- 5.17 Maintain adequate staffing levels in order to achieve the objectives of the Charter.

#### **Article 6**

##### **Commitment by Local Government Trade Unions and Municipal Employees**

Municipal employees commit to:

- 6.1 Be faithful to the Republic, honour the Constitution and abide by the laws in the execution of duties;
- 6.2 Promote the unity and wellbeing of the South African nation in performing official duties;
- 6.3 Loyal execute the policies of government in the performance of duties;
- 6.4 Serve the public in an unbiased and impartial manner in order to create confidence in the local government sector;
- 6.5 Be polite, helpful and reasonably accessible in dealing with the public, at all times treating members of the public as customers who are entitled to receive high standards of service;
- 6.6 Have regard for the circumstances and concerns of the public in performing official duties and in the making of decisions affecting them;
- 6.7 Provide timely service towards the development and upliftment of all South Africans;

## **ANNEXURE "A"**

- 6.8 Not unfairly discriminate against any member of the public on account of race, gender, ethnic or Social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language;
- 6.9 Not abuse their position in municipalities to promote or prejudice the interest of any political party or interest group;
- 6.10 Respect and protect every person's dignity and rights as contained in the Constitution;
- 6.11 Recognise the public's right of access to information, excluding information that is specifically protected by law;
- 6.12 Co-operate fully with other employees to advance the public interest;
- 6.13 Execute all reasonable instructions by persons officially assigned to give them, provided these are not contrary to the provisions of the Constitution and/or any other law;
- 6.14 Refrain from favouring relatives and friends in work-related activities and never abuse authority or influence other employees, nor be influenced to abuse authority;
- 6.15 Use the appropriate channels to air grievances;
- 6.16 Commit to the optimal development, motivation and utilisation of staff and the promotion of sound labour and interpersonal relations;
- 6.17 Deal fairly, professionally and equitably with other employees;
- 6.18 Be creative in thought and in the execution of duties, seek innovative ways to solve problems and enhance effectiveness and efficiency within the context of the law;
- 6.19 Not engage in any transaction or action that is in conflict with or infringes on the execution of official duties;
- 6.20 Accept the responsibility to undergo ongoing training and self-development;
- 6.21 Be honest and accountable in dealing with public funds and use the property of the municipality and other resources effectively, efficiently, and only for authorised official purposes;
- 6.22 Promote sound, efficient, effective, transparent and accountable administration;
- 6.23 Act against fraud, corruption, nepotism, maladministration and any other act which constitutes an offence, or which is prejudicial to the public interest;
- 6.24 Give honest and impartial advice, based on all available relevant information;
- 6.25 Honour the confidentiality of matters, documents and discussions, classified or implied as being confidential or secret, subject to the Protected Disclosures Act 26 of 2000;
- 6.26 Demonstrate professionalism, competency, excellence, transparency and impartiality in the performance of official duties;
- 6.27 Dress and behave in a manner that enhances the reputation of the public service when performing official duties;
- 6.28 Be punctual at work, meetings and events;
- 6.29 Under permitted circumstances, act responsibly as far as the use of alcoholic beverages or any other substance with an intoxicating effect is concerned;
- 6.30 Not use official position to obtain private gifts or benefits during the performance of official duties nor accept any gifts, donations, rewards in kind or cash, or benefits when offered as these may be construed as bribes;
- 6.31 Not use or disclose any official information for personal gain or the gain of others, subject to the Protected Disclosures Act 26 of 2000;
- 6.32 Not, without approval, undertake remunerative work outside official duties or use office equipment for such work;

- 6.33 Demonstrate integrity and respect for all rules, values and established codes of conduct in the performance of official duties;
- 6.34 Declare financial interests at specified times according to prescribed laws and procedures; and
- 6.35 Declare and recuse themselves from any official action or decision-making process which may result in improper personal gain.

**Article 7**

**Commitment to Batho Pele Principles**

7.1 In carrying out their duties, municipal employees are guided, where applicable, possible, and with due regard to the seniority level, occupational category, training and available resources of the employee, by the following Batho Pele Principles:

- 7.1.1 **Consultation:** Citizens should be consulted about the level and quality of the public services they receive and, wherever possible, should be given a choice regarding the services offered;
- 7.1.2 **Service Standards:** Citizens should be told what level and quality of municipal services they will receive so that they are aware of what to expect;
- 7.1.3 **Access:** All citizens have equal access to the services to which they are entitled;
- 7.1.4 **Courtesy:** Citizens should be treated with courtesy and consideration;
- 7.1.5 **Information:** Citizens should be given full, accurate information about the municipal services to which they are entitled;
- 7.1.6 **Openness and transparency:** Citizens should be told how municipalities are run, how much they cost, and who is in charge;
- 7.1.7 **Redress:** If the promised standard of service is not delivered, citizens should be offered an apology, a full explanation and a speedy and effective remedy; and when complaints are made, citizens should receive a sympathetic, and, where applicable / possible, a positive response; and
- 7.1.8 **Value for money:** Municipal services should be provided economically and efficiently in order to give citizens the best value for money;

**Article 8**

**Implementation**

This Charter shall come into effect on **1 January 2016** and will remain in force unless terminated or unless amended by another Charter.

**Article 9**

**Communication and Awareness**

Municipalities shall ensure that all municipal employees are informed and made aware of the contents of this Charter in a manner that is accessible to all occupational levels of employees.

**THIS DONE AND SIGNED AT \_\_\_\_\_ ON THE**

**\_\_\_\_\_ DAY OF \_\_\_\_\_ 2016.**

\_\_\_\_\_  
**(REPRESENTING SALGA – COUNCILLOR T MANYONI)**

\_\_\_\_\_  
**(REPRESENTING IMATU – MR.S KHOZA)**

\_\_\_\_\_  
**(REPRESENTING SAMWU – MR. P MOLALENYANE )**

\_\_\_\_\_  
**GENERAL SECRETARY OF THE SALGBC -  
MR SS GOVENDER**

**OPEN NDLAMBE COUNCIL MEETING**  
**HELD ON THURSDAY, 28 MARCH 2024**

**REPORT DATED 18 MARCH 2024 FROM THE  
MUNICIPAL MANAGER TO COUNCIL: REPORT ON  
REVIEW OF HUMAN RESOURCES POLICIES:  
ANTI-CORRUPTION AND FRAUD PREVENTION  
POLICY**

**ANNEXURE C.07**

# **NDLAMBE LOCAL MUNICIPALITY**



## **ANTI-CORRUPTION AND FRAUD PREVENTION POLICY**

## **1. DEFINITIONS**

**"Accounting Officer"** means the Municipal Manager referred to in Section 80 of the MFMA;

**"Councillor"** means a member of the Ndlambe Municipality;

**"Chief Financial Officer"** means a Chief Financial Officer designated in terms of Section 80 (2) (a) of the MFMA;

**"Designated official"** means the individuals identified in a Municipality to receive reports of allegations of financial offences against councillors, currently the Municipal Manager, Speaker and Executive Mayor in terms of the terms of reference of the disciplinary board on financial misconduct;

**"Disciplinary board"** means a disciplinary board established in terms of paragraph 4 of Regulations on financial misconduct, 2014;

**"Internal Audit"** The Institute of Internal Auditors defines internal audit as an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. The Internal Audit unit will evaluate and contribute to the improvement of risk management, control and governance systems through the annual internal audit programme and surprise audits;

**"Investigator"** means the disciplinary board, treasury, person or team conducting a full investigation in terms of paragraph 5 of Regulations on financial misconduct, 2014;

**"Management"** includes the Senior Management in terms of section 58 of the MSA and include Managers on the first three levels of the organizational structure;

**"MFMA"** means the Municipal Finance Management Act, 2003 (Act 56 of 2003);

**"Staff"** any employee not considered as Management, which is a full-time employee, an individual seconded or contracted to the Municipality in his / her personal capacity;

**"Whistle-blower"** any employee, ratepayer, member of the public or provider of goods and / or services or any other person reporting corruption in terms of this policy;

### **DESCRIPTION OF FRAUD AND CORRUPTION**

The following definition summarizes the act of corruption and fraud to be dealt with in terms of this policy: **"Abuse of power / discretion"** this involves for example a Municipal official using his or her vested authority to improperly benefit another Municipal official, person or entity (or using vested authority to improperly discriminate against another Municipal official, person or entity).

**"Abuse of privileged information misconduct"** this inter alia involves the use of privileged information

and knowledge that a Municipal official or councillor's possesses as a result of his or her office to provide unfair advantage to another person or entity to obtain a benefit, or to accrue a benefit to him or herself.

**"Act of failure"** omitting to report or refusing to report or act upon reports of any such irregular or dishonest conduct.

**"Billing fraud"** occurs when suppliers of goods and services to a Municipality overcharge or otherwise produce false invoices, and payment is secured on those with the help of an employee.

**"Bribery"** is the bestowing of a benefit in order to unduly influence a decision or action. It can be initiated by a person who seeks or solicits bribes or by a person who offers and then pays bribes. Bribery is the most common form of corruption. The 'benefit' of bribery can be virtually any inducement: money and valuables, company shares, inside information, sexual or other favours. Once bribery has occurred, it can lead to other forms of corruption. Public sector bribery can target any individual who has the power to make decisions or to take an action affecting others and is willing to resort to bribery to influence the outcome of that decision.

**"Cheating"** this type of corruption is usually perpetrated by an individual or a group of individuals who are out to influence or distort the truth for their selfish gains, e.g. taking leave without completing an application therefor.

**"Fraud"** is the unlawful and intentional making of a misrepresentation / deceit resulting in actual or potential prejudice to the Municipality and includes; Financial Statement fraud, cheque fraud, conflict of interest, gifts and Electronic Fund Transfer fraud.

**"Collusion"** means conspiring with others by staff/councillors/bidders/suppliers especially in planning fraud or conniving and entering into secret agreement for wrongful and improper purposes.

**"Conflict of interest"** this involves a Municipal official failing to disclose within a reasonable time in writing to the Municipal manager:

- (a) full particulars of any benefit / purchase by an official that he / she might have received from a supplier of goods and services, and / or any interest that his / her spouse, partner or close family member stands to acquire from any contract / friendship concluded with a supplier of goods and services of the Municipality;
- (b) all relationships / friendships with any supplier of goods and services to Ndlambe Municipality;- and
- (c) any private business / venture that any employee is involved in.

**"Conspiracy"** any person who unlawfully and intentionally conspires with any other person to aid or procure a commission from or to commit any offence, whether at common law or against statute or a statutory regulation, shall be guilty of an offence and liable on conviction to the punishment to which the person convicted of actually committing offence would be liable.

**"Corporate corruption / theft"** this occurs in relationships between officials and the suppliers or clients, when officials use the Municipal resources / contracts for private gain, at the expense of the Municipality.

**"Corruption"** giving or offering; receiving or agreeing to receive; obtaining or attempting to obtain any benefit which is not legally due to, or by a person who has been charged with a duty or power by virtue of any employment, to do any act or omit to any act in relation to that power or duty.

**"Cronyism"** it is the practice of appointing friends to high-level, especially in Municipal posts regardless of their suitability.

**"Embezzlement"** this is a form of theft. It is the appropriation of someone else's property that is already in your possession or control. It is something referred to as theft by conversion in that someone else's property is converted into your own private use e.g. False accounting entries, Unauthorized withdrawals, Unauthorized disbursements, Paying personal expenses from bank funds, Unrecorded cash payments, Theft of physical property, and Moving money from dormant accounts.

**"Equipment or resources misconduct"** where the Municipality's equipment is used for personal benefit and include;

- (a) Personal use of Municipal or vehicles hired by the Municipality;
- (b) Theft of any equipment and or material or other items; and
- (c) Irregular / unauthorised destruction, removal or abuse of records (including intellectual property) and equipment.

**"Ethical"** being in accordance with the accepted principles of right and wrong that govern the conduct of a profession e.g. good, just, fitting, fair, responsible, principled, correct, decent, proper, upright, honourable, honest, righteous and virtuous.

**"Extortion"** is committed when a person unlawfully and intentionally obtains some advantage which is not due to him from another by subjecting the latter to pressure which induces him to hand over the advantage. It could also be used to coerce individuals into 'cooperating' in a particular manner or towards a specific cause.

**"Favouritism / discrimination"** it is the practice of giving special treatment to a person or a group of people. This involves the provision of services or resources according to personal affiliation (for example; ethics, religious, gender, geographical factors, political or other affiliations).

**"Forgery"** is the unlawful and intentional making of a false document with intent to defraud which can include cheques and handwritten receipts.

**"Financial misconduct"** to be read with sections 170 to 173 of the MFMA and the description of financial

misconduct and financial offences as defined in the MFMA and the regulations on financial misconduct, 2014, and where individuals or companies have fraudulently obtained money from the Municipality by:

- (a) Making profit from insider knowledge;
- (b) Irregular conspiracy in awarding contracts or orders for goods and / or services;
- (c) Suppliers submitting invalid invoices or invoicing for work not done;
- (d) Revenue fraud; and
- (e) Theft or improperly handling or reporting of monies or financial transactions.

"Forms of Corruption" as described in these definitions are by no means exhaustive as corruption appears in many forms and it is virtually impossible to list all of them.

"Friendship" is a form of interpersonal relationship generally considered to be closer than association / colleagues. For this purpose it would mean people connecting/communicating/spending time with one another after office hours as friends.

"Looting / robbing" this is when an individual is involved in the illegal and illegitimate transfer / handover of money or goods from the Municipality or the Municipal bank account to another company / individual. Looting may also take the form of diversion of goods and services from an intended destination to another (un-intended one). An example of this type of corruption is where suppliers or contractors collude with staff to be paid for goods and services that were never delivered.

"Maladministration" is a political term which describes the actions of a government body which can be seen as causing an injustice. Municipalities can only investigate "maladministration causing injustice". Complaints can be considered about the way a decision was taken by Council, but cannot ignore the decision, only because the person complaining does not agree with it. It also means that the person complaining must have suffered an "injustice" as a result of the faulty decision-making process. Maladministration can include; delays, incorrect action or failure to take any action, failure to follow procedures or the law, failure to provide information, inadequate record-keeping, failure to investigate, failure to reply, misleading or inaccurate statements, inadequate liaison, inadequate consultation, or broken promises.

"Malpractice" improper / refusal or unethical conduct or unreasonable lack of skill by a holder of a professional or official position; such as engineers, lawyers, and professional public / Municipal officers / staff to stand for negligent or. Malpractice is a cause of action or no action, by an official or councillor for which damages/claims to the Municipality are occurred / allowed / claimed.

"Misappropriation" is:

- (a) A non-violent criminal taking of property which includes embezzlement, theft, and fraud. Often

applied to a staff member's taking of an employer's property such as stationary, fuel, tools and equipment.

- (b) Taking / using what belongs to someone else like Municipal quotes and tenders and using it unfairly for one's own gain; for example, or using your position with suppliers for own gain.
- (c) To use wrongly or improperly. In terms of copyright, it is the act of theft or improper use of intellectual property for financial or personal gain.
- (d) Often called unfair competition. A common law form of unfair competition in which an individual or firm copies or appropriates some creation of another that is not protected by patent, copyright, or trademark law, or any other traditional theory of exclusive rights.

**"Misconduct"** includes all the definitions mentioned in this policy and also means to act badly or dishonestly or improperly and / or to manage the activities of the Municipality poorly.

**"Nepotism"** When a Municipal official or councillor uses his influence to ensure that family members or friends or partners are appointed into any Municipal vacancies or that family members or friends or partners receive contracts from the Municipality, is it regarded as nepotism.

**"Other misconduct"** activities undertaken by the staff or councillors of the Municipality which may be unlawful and against the Municipality's regulations or policies, or drop below established standard or practices and result in improper conduct can also be dealt with in terms of this policy and include receiving gifts and favours for rendering services;

**"Patronage"** systems consist of the granting favours, contracts, or appointments to positions by a local public office holder or candidate for a political office in return for political support. Many times patronage is used to gain support and votes in elections or in passing legislation. Patronage systems disregard the formal rules of a local government and use personal instead of formalized channels to gain an advantage.

**"Petty corruption"** is common in very normal day-to-day interactions and relations in society. It usually involves small gifts, favours or bribes. However, small as petty corruption may sound, its destructive power is as bad as grand corruption due to its pervasiveness in society and due to its apparent appearance as 'harmless'. It is therefore possible for many people to dismiss it and think its consequences are not destructive to a society e.g. fast-track the delivery of essential services e.g. issuing of a certificate, payment, building plan approval, receipt, or driving license.

**"Political corruption"** involves councillors seeking bribes or other rewards for their own political or personal benefit in return for political favours to their supporters at the expense of the public interest.

**"Systemic Corruption"** is when corruption becomes accepted as the 'norm' and as part and parcel of the procedures of running public affairs of a Municipality or a society at large. A common manifestation of

**systemic corruption in our country is the frequent bribes by offenders to traffic police officers either to ignore the lack of road worthiness, or over-loading, or over-speeding.**

**"Systems misconduct" where a process / system exists which is prone to abuse by either staff or the public, e.g.:**

- (a) Misadministration or financial misconduct in handling or reporting of money, financial transactions or assets;**
- (b) Conspiracy in allocation of housing;**
- (c) Disclosing confidential or proprietary information to outside parties; and**
- (d) Irregular approval in the writing off of bad debt;**
- (e) Destruction, removal, or inappropriate use of records, furniture, vehicles, fixtures, and equipment.**
- (f) Accepting or seeking anything of material value from contractors, vendors, or persons providing services / materials to the Municipality.**

**"Theft" is the unlawful and intentional misappropriation / misuse / stealing / fiddling / embezzlement of Municipal property with the intention to deprive the Municipality of its right permanently.**

**"Trans-active corruption" arises from dealings between an official and a supplier of goods and services. It may occur when particular officials want to enrich themselves at the expense of the Municipality. For instance, when an official colludes with a supplier of uniforms and the latter supplies goods of substandard quality to the Municipality at an inflated cost so that they not only share the profits but also so that colleagues get poor quality uniforms, then trans-active corruption is said to have taken place.**

**"Unethical" not conforming to approved standards of social or professional behaviour e.g. Immoral, wrong, improper, illegal, dirty, unfair, shady (informal), dishonest, unscrupulous, under-the-table, unprofessional, disreputable, underhand, unprincipled, dishonourable.**

## **2. INTRODUCTION**

Ndlambe Municipality subscribes to the principles of good corporate governance, which require the conducting of business in an honest and transparent fashion.

Consequently, Ndlambe Municipality is committed to fighting fraudulent and corrupt behaviour at all levels within the Municipality.

## **3. SCOPE OF POLICY AND APPLICATION**

This policy covers all matters relating to the prevention, detection, investigation and resolution of fraud and corruption in the Municipality involving the following persons and/or entities:

- (a) Ndlambe Municipality staff members (permanent, temporary, contract)
- (b) Ndlambe Municipality Councillors
- (c) Consultants, suppliers, contractors, and other providers of goods or services to Ndlambe Municipality.
- (d) Other stakeholders of Ndlambe Municipality.

## **4. LEGISLATIVE CONTEXT OF THE POLICY**

This policy aims to give effect to the requirements and stipulations of the

- (a) Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)
- (b) Promotion of Access to Information Act (No. 2 of 2000)
- (c) Promotion of Administrative Justice Act (No. 3 of 2000)
- (d) Protected Disclosures Act (PDA) (No. 26 of 2000)
- (e) Municipal Finance Management Act (MFMA) (No. 56 2003)
- (f) Financial Intelligence Centre Act (FICA) (No. 38 of 2001)
- (g) Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (No. 430 of 2014)
- (h) Code of Conduct for Councillors in terms of Schedule 1 of the Municipal Structures Act (No. 32 of 2000)
- (i) Code of Conduct for Municipal Staff Members in terms of Schedule 2 of the Municipal Structures Act (No. 32 of 2000)
- (j) Labour Relations Act (No. 66 of 1995)
- (k) Ndlambe Municipality Code of Ethics
- (l) Ndlambe Municipality Risk Management Strategy
- (m) Ndlambe Municipality Risk Management Policy

## **5. POLICY STATEMENT**

It is the policy of Ndlambe Municipality that fraud, corruption, maladministration or any other dishonest

activities of a similar nature will not be tolerated. Such activities will be investigated and actions instituted against those found responsible. Such actions may include the laying of criminal charges, administrative / disciplinary actions and civil action for recoveries where applicable.

Prevention, detection, response and investigative strategies will be designed and implemented. These will include any existing controls (system controls and manual internal controls) and those currently prescribed in existing policies, procedures and other relevant prescripts to the activities of the Municipality.

All Managers are responsible for the prevention, detection and sanctioning of fraud and corruption within their areas of responsibility.

## **6. ETHICS**

All corruption and fraud risks arise due to a lack of ethics. Many of the controls implemented to prevent corruption and fraud require human involvement and can be circumvented by two or more persons colluding. People without a strong ethical character will not report corrupt and/or fraudulent acts they are aware of.

Anti-corruption and fraud prevention measures can thus only succeed in an environment of ethical behaviour, not only due to the need to prevent corrupt and fraudulent acts, but also to detect corruption and fraud when it does occur.

## **7. ROLE-PLAYERS IN ANTI-CORRUPTION AND FRAUD PREVENTION**

### **7.1. Oversight**

#### **7.1.1. Council**

Council takes an interest in anti-corruption and fraud prevention to the extent necessary to obtain comfort that properly established and functioning systems of anti-corruption and fraud prevention are in place to protect Ndlambe Municipality against losses, comply with legislation and discipline offenders.

Council may institute investigations into alleged instances of corruption and/or fraud involving Councillors and is responsible for the disciplinary process of Councillors implicated in acts of corruption and/or fraud.

#### **7.1.2. Audit and Performance Audit Committee (APAC)**

The APAC is responsible for providing the Municipal Manager and Council with independent counsel, advice and direction in respect of anti-corruption and fraud prevention.

The APAC will include a specific focus on fraud risks when advising on internal financial control, the accuracy and reliability of the financial statements, governance and compliance with legislation.

## **7.2. Implementers**

### **7.2.1. Accounting Officer / Municipal Manager**

The Accounting Officer is ultimately accountable for anti-corruption and fraud prevention within the Municipality. The Accounting Officer must set an example at the top and promote ethical behaviour within Municipality.

### **7.2.2. Directors**

Directors support the Municipality's anti-corruption and fraud prevention philosophy, integrate it into the operational routines of the Municipality and monitor the anti-corruption and fraud prevention activities within their areas of responsibility.

The Directors are ultimately accountable to the Accounting Officer and Council for the anti-corruption and fraud prevention measures in their directorates.

### **7.2.3. Management**

Management is responsible for designing, implementing and monitoring anti-corruption and fraud prevention controls and integrating it into the day-to-day activities of the Municipality.

Management is also risk action owners and must formulate appropriate action plans to combat corruption and fraud risks identified during risk identification and assessment.

### **7.2.4. Other municipal officials**

Other municipal officials are responsible for adhering to and monitoring the process of anti-corruption and fraud prevention and integrating it into their day-to-day activities.

## **7.3. Support**

### **7.3.1. Risk Management and Internal Unit**

The Risk Management Unit's coordination function enables, through risk identification and assessments, the inclusion of corruption and fraud related risks in the Municipality's risk register. Throughout the unit's monitoring activities, special focus is given to ensure that appropriate action plans are formulated by management to mitigate corruption and fraud related risks and sufficient reporting is conducted to the relevant oversight structures

Internal Audit investigates alleged instances of corruption and/or fraud. As part of their investigations, they must provide recommendations for the improvement of anti-corruption and fraud prevention measures to prevent a similar corruption or fraud incident from occurring in the future.

## **7.4. Assurance Providers**

### **7.4.1. Internal Audit**

In addition to investigations and recommendations, Internal Audit can also provide assurance on the Municipality's anti-corruption and fraud prevention measures.

Due to the Independence requirements of Standard 1130.A1 of the International Standards for the Professional Practice of Internal Auditing, Internal Audit may only provide assurance on anti-corruption and fraud prevention activities they were not involved with.

### **7.4.2. External Audit / Auditor General (AG)**

The AG provides an independent opinion on the effectiveness of the Municipality's anti-corruption and fraud prevention measures.

In providing an opinion the AG:

- (a) determines whether the anti-corruption and fraud prevention strategy, policy and plan are in place and appropriate;
- (b) assesses the implementation of the anti-corruption and fraud prevention strategy, policy and plan;
- (c) reviews the corruption and fraud risk assessment process to determine if it is sufficiently robust to facilitate timely and accurate risk rating and prioritization;
- (d) determines whether management action plans to mitigate the key corruption and fraud risks are appropriate and being implemented effectively.

Findings and recommendations from an external audit can be used in the evaluation and improvement of anti-corruption and fraud prevention measures.

## **8. REPORTING**

Councillors, staff members and the public are encouraged to report any alleged incident of fraud and corruption.

### **8.1. Regulations for Financial Misconduct**

In terms of Regulation 17 (1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (No. 430 of 2014), the Council has established reporting procedures for persons to report allegations of financial misconduct (including corruption and fraud) on a confidential basis.

A person must report allegations of financial misconduct in the following manner:

Allegations against	Report to
Accounting Officer (Municipal Manager)	Council and
Senior Manager (Director)	Provincial Treasury and
Chief Financial Officer	National Treasury
Other municipal officials	Accounting Officer (Municipal Manager)

## 8.2. Reporting lines

### 8.2.1. Staff

It is the responsibility of all staff to report all incidents of fraud or corruption that may come to his/her attention to his/her manager. If the staff member is not comfortable reporting such matters to his/her manager, the matter should be reported to the manager's superior, with final recourse to the Accounting Officer. Where the Accounting Officer is implicated in the incident, the staff member must report the matter to the Speaker.

Alternatively, such reports can be made by way of submitting a report through the prescribed whistle blowing mechanisms.

It is the responsibility of the Managers to report and/or escalate all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to the Accounting Officer. Such reporting by managers must be made as follows:

- (a) Verbally, immediately after discovery of the incident in question;
- (b) Such verbal report must be followed by a detailed written report to be submitted within five working days after the discovery of such an incident.

It is the responsibility of the Accounting Officer to immediately report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to Provincial Treasury. This reporting must take place as follows:

- (a) a detailed written report to be submitted within five working days after discovery of such an incident.

In the event where the Accounting Officer is implicated, the Speaker must report the incident to Provincial Treasury.

The Accounting Officer must assess all reported incidents against the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004) to determine whether the incident must be reported to the South African Police Service (SAPS).

Regardless of whether or not incidents of fraud, corruption, theft, maladministration and other suspected irregularities must be reported to the SAPS in terms of the abovementioned Act, it is the Municipality's policy to refer all alleged fraud and corruption of a criminal nature for prosecution by the appropriate authorities.

The Accounting Officer must consult with Internal Audit to determine whether the matter warrants the laying of criminal charges.

#### **8.2.2. Councillors**

A councillor must report all incidents of fraud or corruption involving staff to the Accounting Officer and incidents of fraud or corruption involving councillors to the Speaker.

#### **8.2.3. Public**

Members of the public may report incidents of corruption and fraud involving the Municipality to any member of management, a Director, the Municipal Manager, Internal Audit or a Councillor.

The person receiving the report has the responsibility to escalate the matter to the appropriate person / authority.

#### **8.3. Confidentiality**

All reports received will be treated with the requisite confidentiality and will not be disclosed or discussed with parties other than those charged with investigation into such reports.

#### **8.4. Anonymous Reporting**

Should a councillor, staff member or member of the public wish to report allegations of fraud or corruption anonymously, they can contact or write to any member of management, the Municipal Manager, Executive Mayor, the Speaker or Internal Audit or make use of the national fraud hotline - 0800 701 701.

### **9. PROTECTION OF WHISTLE BLOWERS**

A whistle blower who reports suspected fraud and / or corruption may remain anonymous should he/she so desire.

The Protected Disclosures Act (No. 28 of 2000) protects whistle blowers who are employed by the Municipality. No employee will be subjected to any occupational detriment by the Municipality on account, or party on account of having made a protected disclosure.

No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and corruption which occurred within the Municipality. The Municipality will not tolerate harassment or victimisation and will take action to protect staff and councillors when they raise a concern in good faith. This does not mean that if a staff member or councillor is already the subject of disciplinary or other action, that action will be halted as a result of their whistle blowing.

The malicious reporting of any false allegations by any staff member or councillor constitutes a serious disciplinary infraction and is not protected by the provisions in this section.

## **10. INVESTIGATIONS**

### **10.1. Responsibility for conducting investigations**

The responsibility for conducting investigations relating to fraud and corruption lies with the Accounting Officer, who may delegate such responsibility, whether generally or in specific cases, to managers of the Municipality as he may consider appropriate.

### **10.2. Anonymous Allegations**

The Municipality encourages staff and councillors to put their names to allegations. Concerns expressed anonymously are difficult to investigate; nevertheless they will be followed up at the discretion of the Municipality. This discretion will be applied by taking into account the following:

- (a) seriousness of the issue raised;
- (b) credibility of the concern; and
- (c) likelihood of confirming the allegation.

### **10.3. Investigators**

The assistance of the following people / entities may be sought for purposes of carrying out investigations into corruption and fraud:

- (a) External and internal audit services;
- (b) Disciplinary Committee;
- (c) External state investigating agencies, e.g. SAPS, where matters fall within their mandate;
- (d) External consultants, e.g. forensic accounting consultants;
- (e) Office of the National Director of Public Prosecutions;
- (f) Special Investigating Units established under any law;
- (g) The Public Protector;
- (h) Any other authority as determined by Council.

Council and management of the Municipality must, within the bounds of their authority, render appropriate support and assistance to any investigation undertaken by an authorised investigator and must arrange/take the necessary steps to facilitate free access to the Municipality's buildings, equipment, staff, councillors and information sources required by the investigator.

### **10.4. Confidentiality**

All information relating to fraud and corruption that is received and investigated will be treated confidentially. The progression of investigations will be handled in a confidential manner and will not be disclosed or discussed with any persons other than those who have a legitimate right to such information.

#### **10.5. Feedback to complainants**

The Municipal Manager or his/her delegate will upon receiving a report of alleged / suspected fraud or corruption, write to the complainant acknowledging receipt.

The Municipality accepts that those people who reported alleged fraud or corruption need to be assured that the matter is progressing or has been properly addressed, but confidentiality during and after investigations must also be maintained. Thus, subject to legal constraints, information about any investigation will be disseminated on a 'need to know basis' only.

#### **11. DISCIPLINARY / LEGAL ACTION**

Where a staff member is alleged to have committed an act of fraud, corruption, theft, or maladministration, the Manager or Immediate senior (if the manager is the alleged offender) must institute disciplinary proceedings within a reasonable period in terms of the disciplinary code and procedures of the Municipality. Where the Accounting Officer or a councillor is the alleged offender, the Speaker or Council (if the Speaker is the alleged offender) must institute disciplinary proceedings.

Any fraud or corruption allegations against staff or councillors will be pursued by thorough investigations and to the full extent of the law by the Disciplinary Committee established by Council in terms of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (No. 430 of 2014, whose actions will include:

- (a) Taking disciplinary action;
- (b) Instituting civil action (particularly to recover losses suffered by the Municipality);
- (c) Initiating criminal prosecution by reporting the matter to the SAPS or any other relevant law enforcement agency; and
- (d) Any other appropriate legal remedies available.

As soon as a disciplinary hearing is completed, the outcome must be reported to the Accounting Officer, for hearings of staff, or the Speaker, for hearings of councillors. Such report must contain the following:

- (a) The name and position of the staff member or councillor against whom proceedings are instituted;
- (b) The disciplinary charges, indicating the misconduct the staff member or councillor is alleged to have committed;
- (c) The findings of the disciplinary hearing;
- (d) Any sanction imposed on the staff member or councillor; and
- (e) Any further action to be taken against the staff member or councillor, including criminal charges or

civil proceedings.

The Accounting Officer must ensure that losses or damages suffered by the Municipality as a result of an act committed or omitted by a staff member, councillor or external person are recovered from such person if he/she is liable in law. The Accounting Officer must determine the amount of the loss or damage and, in writing, request that person to pay the amount within 30 days or in reasonable instalments. If the person fails to comply with the request, the legal process for recovery will be initiated by the Accounting Officer. In the event where recovery actions must be instituted against the Accounting Officer, the Mayor must execute the aforementioned processes.

## **12. RESPONSE TO INCIDENTS**

In all instances where incidents of fraud, corruption, theft, maladministration and other similar irregularities of this nature take place, all Managers must immediately review the controls which have been breached in order to prevent similar irregularities from taking place in future.

Internal audit obtains, assembles and researches information on acts of fraud, corruption, other unlawful and/or irregular conduct and practices in order to identify causes and advise and consult on interventions / action plans to improve controls and prevent similar incidents in future.

## **13. TRAINING, EDUCATION, COMMUNICATION AND AWARENESS**

In order for this policy to be sustainable, it must be supported by a structured training, education, communication and awareness programme.

It is the responsibility of all heads of department and managers to ensure that all staff are made aware of and receive appropriate training and education with regards to this Policy.

Council, in consultation with the Accounting Officer, must arrange training for councillors.

## **14. CONFLICTS OF INTEREST**

All staff and Councillors of Ndlambe Municipality must declare any possible conflicts of interests. Once possible conflicts are disclosed, there are several decision paths:

- (a) If the Municipal Manager/Council declares that there is in fact a conflict that cannot be avoided, the Municipal Manager/Council must require the individual to end the conflict of interest or to resign from the Municipality, otherwise the individual must be charged with misconduct;
- (b) The Municipal Manager/Council may determine that there is a potential for conflict of interest and impose certain constraints on the individual to manage the conflict and avoid opportunities for a conflict to arise. If the individual fails to adhere to the constraints, he/she must be charged with misconduct.

(c) The Municipal Manager/Council may accept the disclosure and determine that there is no conflict of interest in the situation described.

**15. REVIEW**

*This Anti-Corruption and Fraud Prevention Policy must be reviewed and approved by Council annually.*

**NDLAMBE MUNICIPALITY  
CORPORATE SERVICES**



**WHISTLE BLOWING POLICY**

## **1. INTRODUCTION**

**Ndlambe Local Municipality recognises the fact that Criminal and other irregular conduct within Ndlambe Local Municipality is detrimental to good, effective, accountable and transparent governance within Ndlambe Local Municipality and can endanger the economic stability of the municipality and have the potential to cause social damage.**

**There is a need for procedures in terms of which employees may, without fear of reprisals, disclose information relating to suspected or alleged criminal or other irregular conduct affecting them and/ or the municipality. Every employer and employee has a responsibility to disclose criminal and any other irregular conduct in the workplace and every employer has a responsibility to take all necessary steps to ensure that employees who disclose information regarding criminal and any other irregular conduct in the workplace are protected from any reprisals as a result of such disclosure.**

## **2. DEFINITIONS**

**Occupational detriment as defined by the Protected Disclosures Act includes being subjected to disciplinary action, dismissed, suspended, demoted, transferred against your will, harassed, denied promotion, subjected to terms and condition of employment or retirement which are altered or kept altered, intimidated, refused a reference or being provided with an adverse reference, as a result of your disclosure.**

## **3. OBJECTIVES OF THE POLICY**

**3.1 In order to remain in compliance with the Protected Disclosures Act, which came into effect on 16 February 2000, Ndlambe Local Municipality undertakes to:**

**3.1.1 Strive to create a culture which will facilitate the disclosure of information by employees relating to criminal and other irregular conduct in the workplace in a responsible manner by providing clear guidelines for the disclosure of such information and protection against reprisals as a result of such disclosure; and**

**3.1.2 Promote the eradication of criminal and other irregular conduct within Ndlambe Local Municipality.**

**3.2 The policy is intended to encourage and enable staff to report suspected fraud and corruption activities within Ndlambe Local Municipality rather than overlooking a problem or blowing the whistle via inappropriate channels.**

## **4. APPLICATION OF THE POLICY**

**There are existing grievance procedures in place within the organisation enabling employees of Ndlambe Local Municipality to raise grievances relating to their employment. This policy is intended to cover concerns that fall outside the scope of**

**grievance procedures. These concerns in accordance with the Protected Disclosures Act are the following:**

- a) That a criminal offence has been committed is being committed or is likely to be committed.**
- b) That a person has failed is failing or is likely to fail to comply with any legal obligation to which that person is subject.**
- c) That a miscarriage of justice has occurred, is occurring or is likely to occur.**
- d) That the health or safety of an individual has been, or is being or is likely to be endangered.**
- e) That the environment has been, is being or is likely to be damaged;**
- f) Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) No.4 of 2000 is taking place or is likely to take place.**
- g) That any matter referred to in paragraphs (a) to (f) has been is being or is likely to be deliberately concealed.**

## **5. LEGISLATIVE FRAMEWORK**

### **5.1. PROTECTED DISCLOSURES ACT**

**This policy is developed based on the principle objects of The Protected Disclosures Act, which encourages employees to disclose any acts of misconduct without fear of any recriminations or reprisals.**

**Section 2 of The Protected Disclosures Act clearly defines the "Objectives of the Act" as follows:**

- 5.1.1 To protect an employee from being subjected to an occupational detriment on account of having made a protected disclosure.**
- 5.1.2 To provide for remedies in connection with any occupational detriment suffered on account of having made a protected disclosure.**
- 5.1.3 To provide for procedures in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his or her colleagues, other stakeholders and employer.**

## **6. WHO CAN REPORT?**

**Any member of staff or member of the public who has a reasonable belief that there is fraud or corruption or misconduct relating to any of the protected matters specified in Section 4 of this Policy, may report under the procedure as set out in this Policy.**

Concerns must be raised without malice, in good faith and not for personal gain and the individual must reasonably believe that the information disclosed, and any allegations contained in it are substantially true.

## **7. HARASSMENT OR VICTIMISATION**

7.1 Ndlambe Local Municipality acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisals from those responsible for the irregularity.

7.2 Ndlambe Local Municipality will not tolerate harassment or victimisation and will take action to protect employees against such conduct when they report in good faith.

7.3 Any act of harassment or victimisation should be reported to the Accounting Officer or alternatively, to the Manager: Risk Management.

7.4 Where an employee is already or stands to be the subject of disciplinary or other action, reporting of the nature stipulated in the Protect Disclosure Act, shall not mean that t action will automatically be ceased as a result of their whistle blowing.

## **8. GUARANTEES AND PROTECTION**

8.1 Confidentiality regarding the identity of the person reporting under this Policy will be maintained at all times, and nobody acting in good faith will be penalized for making such disclosure regarding information that might be in the interest of Ndlambe Local Municipality. Every effort will be made not to reveal the identity of the whistle blower unless he/she permit/allow.

8.2 Notwithstanding clause 7.4 above ; Ndlambe Local Municipality as employer shall ensure that any employee who makes a disclosure in terms of the Protected Disclosures Act and in circumstances as herein discussed, will not be penalized or suffer any occupational detriment for doing so.

8.3 Any employee who raises a concern in good faith in terms of the Protected Disclosures Act, will not be at risk of losing their job or suffering any form of retribution as a result. Ndlambe Local Municipality will not tolerate the harassment or victimization of anyone raising a genuine concern.

8.4 A guarantee and protection/assurance regarding occupational detriment can however not be extended to employees who maliciously raise matters they know to be untrue and action will be taken against such employees.

## **9. FALSE AND MALICIOUS ALLEGATION**

9.1 Persons intending to report a matter under the Protected Disclosures Act shall guard against making allegations which are false and made with malicious intent.

9.2 In instances where persons do make such false and malicious reports, such persons will not enjoy the protection offered by the Protected Disclosure Act and where cost implications arise due to investigations done and resources allocated on the basis of false allegations, such costs shall be claimed as damages suffered by the Municipality from the person who made the false or malicious allegation.

9.3 An employee who does not act in good faith or who makes an allegation without having reasonable grounds for believing it to be substantially true, or who makes it maliciously, shall be subjected to disciplinary proceedings.

## 10. REPORTING PROCEDURE

10.1 Reports of possible fraud or corruption from any internal or external source can be submitted internally to:

10.1.1 Line management;

10.1.2 Directors;

10.1.3 Municipal Manager; or

10.1.4 Internal Audit Unit (Risk).

10.2 An alternate way of reporting possible fraud and corruption can be made by contacting the Office of the Municipal Manager and an application for a Fraud Hotline will be made for persons to remain anonymous when making reports via this Hotline.

10.3 Where a person have reported his/her concern through any of the channels described in sub-paragraphs 10.1 and 10.2 above and have substantial reason to believe that there may be a cover-up or that evidence may be destroyed or that the matter might not be handled properly, that person may raise his/her concern in good faith with a Member of the Mayoral Committee of the Municipality.

10.4 Employees and members of the public not wishing to report a matter internally may make reports or Public Interest Disclosures to the following investigating authorities:

10.4.1 SAPS;

10.4.2 Public Protector;

10.4.3 Auditor-General; or

10.4.4 Any other relevant authority

10.4.5. Audit Committee Chairperson

## 11. HOW THE MUNICIPALITY WILL RESPOND

11.1 The action taken by the Municipality will depend on the nature of the allegation reported. The possible routes of action open to the Municipality are to:

11.1.1 Investigate internally; and /or refer the matter to South African Police Service or other relevant law enforcement agency, where applicable.

11.1.2 Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form the investigation should take. Allegations raised may not necessarily require an investigation to be resolved.

11.1.3 The frequency of contact between the investigating officer and the person reporting (where not anonymous) will depend on the nature of the allegations raised and the investigations which may be required to be performed. If required and where possible, further information may be sought from the person who made the report.

11.1.4 All investigations will be handled confidentially and will not be discussed with any persons other than those who legitimately have the right to such information.

## 12. CREATING AWARENESS

12.1 In order for this Policy to be sustainable, it must be supported by a structured education, communication and awareness programme.

12.2 It is the responsibility of all Directors and Managers to ensure that all employees, are made aware of, and receive appropriate training and education with regard to the whistle blowing policy.

12.3 For purposes of reporting by members of the public the Municipal Manager must ensure that this Policy is available on the Municipal website.

## 13. REVIEW AND UPDATING THE WHISTLE BLOWING.

The policy will be reviewed every 2 years or as and when required to incorporate changes in the legislative framework within Local Government.

**OPEN NDLAMBE COUNCIL MEETING**  
**HELD ON THURSDAY, 28 MARCH 2024**

**REPORT DATED 18 MARCH 2024 FROM THE  
MUNICIPAL MANAGER TO COUNCIL: EXCHANGE  
OF ERF 1149 STATION HILL, PORT ALFRED IN  
LIEU OF ERF 370 NKWENKWEZI TOWNSHIP:  
ESTATES SECTION**

**ANNEXURE C.08**



<b>Land Parcel</b>
<b>Submit Query</b>
<b>Erf11:</b>
<b>Address 1 f</b>
<b>Hill</b>
<b>SG Number C0</b>
<b>00</b>
<b>Municipality Nd</b>
<b>Township/Holding: Title Deed Po</b>
<b>Suburb: Financials Ea</b>
<b>ad</b>
<b>Extent 71</b>
<b>Pensioner Application Received</b>
<b>Water Line</b>
<b>Title Deed TS</b>
<b>Owners Pla</b>
<b>ad</b>
<b>Registered 28</b>
<b>Price 0.1</b>
<b>Municipal Value 82</b>
<b>Latest Valuation 93</b>
<b>Valuation Category Mu</b>
<b>pe</b>
<b>H Area Th</b>



**NDLAMBE MUNICIPALITY**  
**Port Alfred**



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**RESOLUTION**

**MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 31 OCTOBER 2023 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

**NCM032/10/2023**

**REPORT DATED 24 OCTOBER 2023 FROM THE MUNICIPAL MANAGER TO COUNCIL: MOTION TO RESCIND COUNCIL RESOLUTION NO. NCM007/05/2021**

**COUNCIL RESOLVED**

1. THAT it BE NOTED that Councillor S Venene presented the motion to rescind council resolution no. NCM007/05/2021 to council and the motion was seconded by Council Y Kanl.
2. THAT it BE NOTED that the motion submitted by Councillor S Venene proposed that the decision taken on 31 May 2023 to "reserve the ERF no. 370 Located in Mawela Street, Nkwankwazi for Mr SS Mnjingwana and Mrs X Mnjingwana be rescinded with immediate effect, as it has the potential to lead to legal litigation for the Municipality . The property belongs to another organ of state, and therefore it is premature to decide on an asset, which does not belong to Ndlambe Municipality".
3. THAT the Municipal Manager consider an alternative land in consultation with Mr Mnjingwana and the proposed land be brought to Council for approval.
4. THAT a proper investigation be done on the land that will be identified for Mr Mnjingwana before the matter is brought to council for approval.

\*\*\*

Signature : .....

Date : .....

14/12/2023

To: The Municipal Manager  
Adv. R. Dumezweni

Date: 13 September 2023

Proposer: Cllr Sikhumbuzo Venene

Seconder: Cllr Edward Walker

MUNICIPAL MANAGERS OFFICE  
P.O. BOX 13, PORT ALFRED, 6170

13 SEP 2023

TEL: 046 604 5556 FAX: 046 624 2669  
NDLAMBE MUNICIPALITY

**Motion To Rescind Council Resolution no NCM7/05/2021**

**Background:**

On the report dated back to the 31 October 2019, NCM14/10/2019, which states the transfers of the 923 properties into the Ndlambe Municipality, and which lead to the cancellation of resolution of Erf 3865 (260 square meters), for (488 square meters). This was because of the difference of (288 square meters), in size, which was also an illegal exchange offer for property, to settle the matter between Mr SS Mnjingwana and Mrs X Mjingwana.

**Resolution (d)**

That it BE APPROVED that Erf 370 (570 square meters) located in Mswela Street, Nkwenkwezi and zoned as residential, as depicted on the local plan number 370/ Nkwenkwezi, which ownership vests in the Provincial Government, under the Title Deed no.T2346/2005, BE RESERVED for Mr SS Mjingwana and Mrs X Mnjingwana , until the time that the property is donated by the above state organ. Council Resolution NCM14/10/2019 dated 31 October 2019 accepted the above resolution until the property is transferred, to the Ndlambe Municipality, subject to the following conditions:

- 1.The purchase price R3 420-00 which had been settled towards Erf 139
- 2.The conveyance costs associated with the transaction is to be borne by the Municipality.

Resolution (f) indicated the position of the Democratic Alliance (DA) councillors voting against this at the time in council. In our Municipal Disposal policy, we have nothing that suggests that we have any powers or rights to RESERVE any property for any individual.

**As per the MFMA No 56 of 2003 and Preferential Procurement Policy Framework Act No. 5 of 2000 and Regulations, Section 14, Disposal of Capital Assets:**

**Sub-Section 2(1) (a) and (b)**

**And therefore the "Confidential" Council Meeting was a direct violation to the above policy which prescribes the Meeting to be held in a Council Meeting, Open to the Public.**

Mr Mjingwana has now started to fence off the area without any legal documentation such as a Title Deed, which entitles a legal owner the right to occupy land and build any type of structure. The policy suggests public participation and consultation with all the interested parties, to hold a fair and transparent process for all South Africans.

Conclusion.

The Erf in question has a rich football history, which cannot be taken lightly and the people of the area of Emakhamangeni are currently raising concerns over the fencing off, of this property. It also serves as an access to the municipal sewage pump station in a vicinity commonly known as Emakhamangeni.

During the early 1970's, before many soccer teams were established in Port Alfred, this ground was a place of joy for all youth playing soccer during that time. This Erf is situated between the families of Zozi, Nyendwana and Sonandzi Soccer competitions were played there in the vicinities such as the Esileyini team vs the Esityhotyholweni team. It was during this period that soccer lovers decided to establish formal soccer clubs.

In 1978 Cosmos Football Club was established and they took players from this soccer ground, known by many as "Fanvele" or "ibala la kwa Juda". Again, during the late 1980's and early 1990's I happened to be priveledged to be part of this legacy under the leadership of Mr Dyakala, who was known as "u Stena" or "Sbindi", who worked as a shop assistant for the Mbenga family. He would use his last resources to have us play for sweets for the whole day, and to be cup winners. This man would commentate on the side of the field and give players nicknames of the Kaiser Chiefs Football Club to motive us during those years.

For Ndlambe Council to RESERVE this historic property for any individual is a direct violation and an insult to the people of Port Alfred.

I, therefore, propose that an illegal decision which was taken to "RESERVE" this property for Mr SS Mnjingwana and Mrs Mnjingwana be rescinded with immediate effect, as it has the potential to lead to legal litigation for the Municipality. The property belongs to another organ of state, and therefore it is premature to decide on an asset, which does not belong to the Ndlambe Municipality.

I thank you.