



CITY OF HARARE

MINUTES OF A SPECIAL COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, TOWN HOUSE ON TUESDAY, 29th DECEMBER 2020 AT 3:10 PM

PRESENT

Councillor I.M. Makone: Chairing

COUNCILLORS

T. Chagaresango	N. Makondo	M.S. Mutizwa
E.M. Chipfiwa	T. Manase	A. Shoko
L. Gomba	T. Matafi	S. Wutawunashe
M. Kasvosve	M.S. Matinyanya	(14)
T. Katsaria	M. Mudariki	

ABSENT WITHOUT LEAVE: Councillors: P.T. Mangwiro-Chikwaka
E. Ruzani
C. Zumba

ON SUSPENSION: His Worship, the Mayor, Councillor J. Mafume
Deputy Mayor, Councillor L. Mukunguma
Councillor A. Shingadeya (3)

VACANCIES: (23)

PRESENT BY INVITATION

Mr. T. Chivanga : Provincial Development Co-ordinator,
(Representative)
Ministry of Local Government and Public Works

OFFICIALS PRESENT

Eng. I.Z. Chawatama	:	Acting Town Clerk
E. Mushava	:	Acting Chamber Secretary
S. Ndemera	:	Acting Finance Director
Eng. M. Moyo	:	Acting Director of Harare Water
Dr. K.P. Masunda	:	Acting Director of Health Services
O. Mutonhori	:	Transport Manager
A. Nyamurova	:	Audit Manager
W. Chiwawa	:	Acting Legal Manager
L. Masuka	:	Acting Committees Manager
I. Ruwende	:	Acting Corporate Communications Manager
And other officials		

1. PRAYERS (1)

The opening prayer was led by Councillor S. Wutawunashe.

2. NOTICE (2)

The notice convening the Meeting was read by the Acting Chamber Secretary.

3. PROVISIONS REGARDING SPECIAL MEETINGS OF COUNCIL (3)

The Acting Chamber Secretary drew the attention of Council to the Urban Councils Act (Chapter 29:15) Section 84 (4) which regulated Special Meetings of Council, the provisions of which were-

NOTED

4. LEAVE OF ABSENCE (3)

RESOLVED

That applications for leave of absence by the following Councillors be approved:

Councillors

J.K. Kunashe	:	29 th December 2020	
B. Matione	:	29 th December 2020	
T. Mhetu	:	29 th December 2020	(3)

5. ELECTION OF CHAIRPERSON (5)

In the absence of the Mayor and the Deputy Mayor to Chair the Special Council Meeting proceeded to elect a Chairperson to preside at this meeting. Councillor T. Matafi then proposed, seconded by Councillor T. Manase that Councillor I.M. Makone be elected to preside at the meeting.

RESOLVED

That Councillor I.M. Makone be and is hereby elected Chairperson to preside at this meeting.

6. NOTICE OF A DIRECTIVE FROM THE HONOURABLE MINISTER OF LOCAL GOVERNMENT AND PUBLIC WORKS TO CONSTITUTE A SPECIAL COUNCIL MEETING TO APPOINT AN ACTING MAYOR FOR HARARE CITY COUNCIL

The Acting Chamber Secretary had received a letter from the Honourable Minister of Local Government and Public Works dated 24th December 2020 regarding the above cited matter, copy of which is attached to these Minutes as Annexure 'A'.

The Acting Chamber Secretary convened the meeting on this day, 29th December 2020 to consider the matter.

However, the members present could not constitute a quorum of seventeen (17) members as required by the law. The Acting Chamber Secretary advised the Council that the meeting could not proceed due to lack of quorum.

The Council argued that the expected number of seventeen (17) Councillors could not be reached since more than half of the forty six Councillors were either recalled or suspended from Council service. According to Councillors opinion, the total number of the remaining twenty (20) Councillors in office versus those fourteen (14) in attendance at this meeting constituted a Quorum.

Another member of the Council requested for a Legal opinion regarding the same matter.

The Acting Chamber Secretary responded that a Legal opinion on what constitutes a Quorum of meetings of Council had already been sought from Council's External Lawyers. He then read a summary of the Legal Opinion.

“Section 85(1) of the Urban Council's Act (Chapter 29:15), provides that one third of the total membership of a Council, together with one other Councillor shall form a Quorum at a meeting of the Council.” He read further on composition of the Council as enshrined in Section 39(1) of the Urban Councils Act. Hence in the case of the City of Harare, the number of members which compose the Council is forty-six (46) members then what constitutes a Quorum for a lawful meeting of Council of the City of Harare is a third of the total number of Councillors plus one. This means that out of the forty six (46) Councillors, the Quorum is (16) plus one Councillor to make it seventeen (17)”.

The Legal opinion underlined that “the Quorum is not a third of the remaining Councillors following the recent recalls. A meeting attended by at least seventeen (17) Councillors will therefore be a lawfully convened meeting of the Council of the City of Harare.”

Notwithstanding the Legal opinion read by the Acting Chamber Secretary, the Council insisted that the meeting should proceed on the basis of avoiding a vacuum in Council operations. The Council requested that a waiver of the Urban Councils Act on this matter be sought from the Honourable Minister of Local Government and Public Works that the required number of a lawful Council meeting be guided by the number of the remaining Councillors in Office.

The Council further requested for another different or second Legal opinion on the matter.

Following discussion, the Council –

RESOLVED

- (1) That notwithstanding the Legal opinion read by the Acting Chamber Secretary regarding the issue of what constitutes a Quorum of Council meeting, the Council agreed to proceed with the meeting to elect an Acting Mayor for City of Harare.
- (2) That the reason for electing an Acting Mayor was to avoid a vacuum in Council operations.
- (3) That the Acting Chamber Secretary seeks a second Legal opinion regarding the matter of what constitutes a Quorum of the Harare City Council.
- (4) That the Town Clerk and the Acting Chamber Secretary seek for a waiver of the Urban Councils Act from the Honourable Minister of Local Government and Public Works on the number of members who constitute a Quorum in the City of Harare.

ACTION: TC & ACS: 30/12/2020

7. A MOTION TO APPOINT AN ACTING MAYOR FOR HARARE CITY COUNCIL

Following discussion recorded in Item 6 above in these Minutes and the agreed position of Council to proceed with the meeting –

Councillor T. Matafi MOVED as a MOTION, seconded by Councillor N. Makondo-

That Councillor M.S. Mutizwa be appointed as the Acting Mayor for Harare City Council.

The MOTION was PUT and CARRIED unanimously.

RESOLVED

That Councillor M.S. Mutizwa be and is hereby appointed Acting Mayor for Harare City Council.

ACTION: TC: 30/12/2020

8. ASSUMPTION OF THE MAYORAL CHAIR BY THE HIS WORSHIP, THE ACTING MAYOR AND HIS REMARKS

The Acting Chairperson, Councillor I.M. Makone who presided over this meeting invited His Worship, the Acting Mayor, Councillor M.S. Mutizwa to assume the Chair.

His Worship, the Acting Mayor in His acceptance speech, thanked the Councillors for electing him to this position of Acting Mayor. He implored

Councillors and officials to work together diligently and bring back Harare City Council to sanity. He drew the attention of the Council to its purpose of serving the residents of Harare and urged Councillors and officials to embrace this common purpose for the betterment of the Harare City Council and its residents.

NOTED

9. CLOSING PRAYER

The Closing Prayer was led by Mr. S.K. Chimbetete.

THE MEETING ENDED AT 3:40PM

LM/spm