

**No. 37**

# **MINUTES**

## **OF**

### **ETHEKWINI MUNICIPAL COUNCIL**

Ordinary Meeting held on Wednesday, 2023-05-31T10:00,  
at Durban Exhibition Centre, Durban.

**PRESENT :** Councillors TE Nyawose (Speaker), TM Kaunda (Mayor), ZP Myeni (Deputy Mayor), J Annipen, A Beetge, M Billy, T Biyela, JM Black, NJ Bollman, M Brauteseth, WJD Burne, MH Buthelezi, SB Cele, SP Chebure, J Chetty, R Cloete, SV De Boer, CB Dlamini, Z Dzanibe, J Essop, BA Fortein, SN Gabela, GM Gasa, DM Gcabashe, FO Gcabashe, NBC Godlwana, R Gokool, G Govender, S Govender, SV Govender, Y Govender, BR Gumede, NC Gumede, S Gumede, BM Gwala, MS Gwala, GJ Hegter, MM Hlengwa, NP Hlomuka, SD Hlongwa, MF Ismail, DM James, M Johnson, MA Mgobhozi, K Khambule, MH Khan, MN Khubisa, KNN Khubone, NL Khuzwayo, ZW Khuzwayo, SNC Khwela, A Kissoon, BG Kubheka, V Kunju, CJ Laing, SW Lushaba, M Lutchmen, WM Luthuli, MA Madlala, NI Madlala, SR Madlala, RP Maharaj, S Maharaj, FN Majola, TG Makhanya, HS Makhathini, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, KT Mbhele, RP Mbonambi, BA Mchunu, JL Mchunu, NP Mchunu, SW Mcineka, RL McKenzie, X Mdlazi, FW Mdletshe, SP Mfeka, K Mhlaba, GN Mhlongo, NM Mhlongo, SE Mhlongo, MB Mjadu, AZ Mkhize, KV Mkhize, MA Mkhize, ME Mkhize, MP Mkhize, NN Mkhize, NA Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, BR Mngadi, DF Mngadi, S Mngadi, SV Mngadi, MR Mngonyama, TJ Mnguni, DP Mngoma, BV Mngwengwe, ZO Mnomiya, S Mnyandu, T Mohamed, R Moses, ND Motseke, SB Mpanza, LI Msomi, DV Msweli, LG Mthembu, SSS Mthethwa, TD Mthethwa, N Munien, OB Mvubu, SK Mzimela, BD Naidoo, J Naidoo, AB Ndlovu, MF Ndlovu, PB Ndlovu, NS Ndlovu, V Ndlovu, SG Nene, TH Nene, SB Ngcongo, S Ngema, DB Ngubane, LE Nkomeni, MS Nkosi, DR Nowbuth, XM Nqweniso, DM Nsundwane, SH Ntombela, PC Ntshangase, BT Ntuli, N Ntuli, NZ Ntuli, PB Ntuli, B Nxumalo, MR Nxumalo, PH Nxumalo, NN Nyanisa, MV Nzimande-Madlala, AAK Paruk, DT Pillay, P Pillay, GDA Pullan, A Rampersad, VG Reddy, T Sabelo, A Shaheed, BH Shange, LP Shange, MG Shange, TE Shezi, IM Shinga, HP Shoji, JN Sibisi, KS Sibisi, WP Sibisi, LC Sikhakhane, BSB Sindane, J Singh, S Singh, PS Sishange, CN Sisoka, NI Sithole, BS Sivetye, EG Smith, ZR Sokhabase, ZA Solomon, I Syed, BB Thusi, ME Thusi, M Thusi, ZN Tshazela, NT Tyelinzima, JC Van den Berg, HM Van Der Ryst, NB Vilakazi, SM Windvogel, TV Xulu, NY Young, GN Zondi, M Zondi, N Zondi, ON Zondi-Mthembu, TG Zungu and there being two (02) vacancies.

**ABSENT :** Councillors A Abdul, AD Beesley (Personal Commitments); KPM Cele (Personal Commitments); SG Gama, F Ismail (Indisposed); J Jacquire (Personal Commitments); LBS Jali, ME Mabaso, RD Macpherson, A Maharajh, ZM Mncwango (Personal Commitments); T Miya (Indisposed); E Mngadi, NP Msibi (Indisposed); NP Msomi, TM Mthethwa (Personal Commitments);

SR Moodley (Indisposed); V Ncukana, NB Ndlela, PC Ndlovu, MM Ngiba, BW Phewa, S Sewshanker, EL Singh (Indisposed), AD Snyman (Indisposed), NI Webster and T Xuma.

AMAKHOSI

PRESENT : None

AMAKHOSI

ABSENT : Inkosi JJ Shangase; Inkosi S Mlaba and Inkosi EB Shoji (All on Personal Commitments).

OFFICIALS

PRESENT : Messrs/Mesdames TB Mbhele (City Manager), M Mhlongo (Head: Legal & Compliance), A Seheri (Head: City Administration & Secretariat); BM Mhlongo (Deputy Head: Office of the Speaker) and SC Zondi (Chief Committee Officer).

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(At the commencement of the meeting 185 Councillors were present, comprising ANC - 80, DA - 56, EFF - 16, IFP - 16, ASA - 02, ABC - 01, ACC - 01, ACDP - 01, AIC - 01, ADEC - 01, APF - 01, ATM - 00, AL JAMA-AH - 01, DLC – 01; JEP - 01, KZNI - 01, MF - 01, MOSA - 00, NFP - 00, PFP - 00, PRM - 01, TA- 01, UIM - 01 and VF Plus - 01).

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1. NOTICE CONVENING THE MEETING

The City Manager read the notice convening the meeting as per the statutory requirement.

2. OPENING

The Speaker declared the meeting open at 10h24 and extended a warm welcome to Councillors; Traditional Leaders; City Manager; Deputy City Managers; Head Legal and Compliance Services and other Unit Heads; Members of the Administration; Media; and Members of the Public viewing on social media live streaming.

3. AFRICAN UNION AND NATIONAL ANTHEM

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

4. OPPORTUNITY FOR PRAYER/MEDITATION

The Speaker requested Council to observe a moment's silence for everyone to meditate.

5. OFFICIAL ANNOUNCEMENTS

5.1 The Speaker presented the following announcements for the attention of the Members of Council:

5.1.1 Councillors were kindly requested to mind the cables crossing underneath the tables, to avoid tripping onto them accidentally and also to avoid lifting up the delegates microphones when talking as this destabilized the entire sound system. That in the event there are challenges with a mic, attempt be made by Councillors to utilise another mic, while alerting the Administration Team to address the challenge.

5.1.2 On behalf of Council the Speaker congratulated, the Inkosi Albert Luthuli International Convention Centre for successfully hosting the International Table Tennis tournament held from 20-28 May 2023. It was mentioned that because of the tournament, several Countries descended in the beautiful Durban shores. That, again, the beautiful City proved to be on an international landscape as a tourist destination and host of different sporting codes.

5.1.3 Councillors were reminded that this meeting had two (02) sessions namely, Ordinary Council to deal with ordinary council matters and a Special Council to consider the 2023/2024 Final Budget.

5.1.4 Councillors further noted that there was an hour (60 minutes) allocated to debate on the Mayor's Budget speech, and each Party has been allocated minutes for this purpose and same was communicated to all Party Whips. Councillors were also kindly reminded to complete the Attendance Register circulated at the meeting.

5.1.5 Councillors were encouraged to conduct themselves with dignity and decency during the Council proceedings, and in compliant with the expectations in terms of the Councillors' Code of Conduct.

5.1.6 Emphasis was made that Members of the public should take note that as part of legislation they were allowed to attend Council Meetings; however, they were not allowed to speak at these meetings as they were granted only an observer status. That, any service delivery issues can be raised through their respective Ward Councillor or the Ward Committee.

5.1.7 The Speaker reminded Whips of Committees that it was also their duty to manage the behaviour of their Councillors. Emphasis being made that when a matter was being put to a vote there should be no movement as this has a negative impact on the numbers.

5.1.8 He concluded by extending best of luck to the Councillors and Officials that will participate in the 96<sup>th</sup> Comrades Marathon taking place on 11 June 2023. That the race was set to start at Pietermaritzburg City Hall and end at the Hollywoodbets Kingsmead Stadium in Durban.

5.1.7 Best wishes were extended to all Councillors who celebrated their birthdays this month.

6. SPEAKER'S REPORT

**Purpose**

In presenting his Report, the Speaker submitted that the purpose was to report the activities undertaken by the Municipal Council during the month of May 2023, in line with the provision of Section 13(f) of the Rules of Order By-Law 2014, as amended.

## 6.1 COMMUNITY ENGAGEMENTS

- 6.1.1 The Speaker was hopeful to report that communities still appreciated platforms created by the Municipality to engage them on various Municipal matters. That this was evident from the noticeable huge turnout on the 2023/2024 Budget/IDP Hearings.
- 6.1.2 The Speaker reported that there was still a concern with ward-based engagements held and reported as required, he advised that thus far in the month of May, there was only fourteen (14) community/stakeholder engagements reported. Councillors were encouraged to submit report as required, it being mentioned that there were more engagements held within the Wards, however, there were not reported accordingly.

## 6.2 MUNICIPAL RAPID RESPONSE TEAM (RTT)

It was reported that on 04 April 2022, Council established the Municipal Rapid Response Team (MRRT) as part of compliance with the Department of Cooperative Governance and Traditional Affairs (COGTA)'s requirement, to monitor and manage Municipal public protests.

The established MRRT currently comprises of three (03) segments, namely:

Rapid Response Team	Technical Task Team	Political Task Team
<ul style="list-style-type: none"><li>Comprising of officials responsible for attending to public protests and collating memoranda therefrom</li></ul>	<ul style="list-style-type: none"><li>Comprising of representatives from different Municipal Units as appointed by respective Heads of Units to attend to matters raised in memoranda</li></ul>	<ul style="list-style-type: none"><li>Comprising of Political leadership (Chairpersons of Support Committees) to provide political interventions and support</li></ul>

- 6.2.3 The Speaker reported that on 23 May 2023, the MRRT held its meeting to consider progress made since its inception to date. Teething problems such as the fact that the Technical Task Team was still not fully represented by Officials from various relevant Service Units, which then hinders the timeous addressing of matters raised in memoranda received. A decision was taken to escalate this concern to the City Manager for his intervention with identified Clusters that had not complied as yet.
- 6.2.4 During the meeting of 23 May 2023, a report was also presented on the protest held from January to May 2023, wherein it was noted that the majority thereof pertained to communities not pleased with water shortages and electricity. It was pleasing to note that in some areas where there were such protest actions, issues raised have been resolved, whilst some remain outstanding and were being addressed.
- 6.2.5 The Speaker mentioned that it was also resolved that Terms of Reference for the MRRT be developed and submitted to the Municipal Council for adoption. These will be developed and submitted accordingly to Council once completed. The MRRT will continue to meet frequently since the functionality thereof was also being monitored by COGTA, as part of their ongoing Municipality functionality assessment.

### **6.3 UPDATE ON COUNCIL MEMBERSHIP**

- 6.3.1 It was recalled that at the Council meeting held 26 April 2023, it was reported that erstwhile Councillor Ntokozo Sibiyi-Xaba representing the African National Congress (ANC) had resigned as a Member of Council with immediate effect. This created a Proportional Representation (PR) Councillor vacancy within the Council.
- 6.3.2 It was reported that confirmation has been received from the Independent Electoral Commission (IEC) that Councillor Conrad Bongumusa Dlamini has been elected to replace erstwhile Councillor Ntokozo Sibiyi-Xaba, as a PR Councillor representing the ANC.
- 6.3.3 Council further noted that there was still a vacancy within the Municipal Council for Ward Councillor in Ward 11, a by-election thereof will be held on 28 June 2023. It being further noted that the vacancy in Ward 73 has also been filled, through a by-election that was held on 24 May 2023, however confirmation of the elected Councillor was still awaited from IEC.

### **6.4 MEMBERSHIP: MUNICIPAL PUBLIC ACCOUNTS COMMITTEE**

- 6.4.1 It was recalled that at the Council meeting held on 26 April 2023, it was reported that the African National Congress (ANC), had a vacancy in the Municipal Public Accounts Committee (MPAC) from its five (05) Members as per its proportional representation.
- 6.4.2 That a request has been received by Office of the Speaker from the ANC requesting that Councillor Conrad Bongumusa Dlamini be appointed to MPAC to fill the vacancy that existed.

Accordingly, it was

#### **RESOLVED:**

That Council approves the appointment of Councillor Conrad Bongumusa Dlamini to serve on the Municipal Public Accounts Committee (MPAC), representing the African National Congress (ANC).

#### **ADOPTED**

### **6.5 ALLEGED BREACH: COUNCILLOR MZIMUNI NGIBA**

#### **6.5.1 PURPOSE**

In presenting this Report, the Speaker submitted that the purpose is to outline the process followed to date in addressing Councillor Mzimuni Ngiba's matter as it relates to alleged breach of Schedule 7: Code of Conduct for Councillors, contained in the Local Government: Municipal Structures Act No. 117 of 1998 (LG: MSA).

Also, to advise Council of the outcome arising from the processes undertaken to address this matter and proposed recommendations thereon.

## **6.5.2 BACKGROUND**

- 6.5.1 The eThekweni Municipal Council, as established in terms of Section 12 of the LG: MSA, comprises of 222 Municipal Council Members, with 111 representing Ward Councillors and another 111 being Councillors allocated on a Proportional Representation (PR) basis.
- 6.5.2 The conduct of Councillors is governed through the provisions in Schedule 7: Code of Conduct for Councillors, contained in the LG: MSA. The Code also makes provision for mechanisms to address alleged breaches identified.
- 6.5.3 The responsibility to monitor compliance with the Councillors Code of Conduct rests with the Speaker, as per the statutory obligation, and in line with functions assigned to the Speaker in terms of Section 37 of the LG: MSA.

## **6.6 DISCUSSION**

- 6.6.1 Councillor M Ngiba is an elected Ward Councillor in Ward 101, representing the African National Congress (ANC). He was elected through a by-election held to fill the position of the deceased Councillor Mkhize.
- 6.6.2 In terms of the Councillors' Code of Conduct, elected Councillors have a duty to attend Council and Committee meetings assigned accordingly. Compliance in this regard is monitored by the Speaker upon receipt of the report on Councillors attendance of meetings submitted by the Secretariat Department. In terms of the report received from the said Department, Councillor Ngiba was recorded as having missed more than three (03) consecutive Council and Committee meetings without submitting leave of absence, as per the statutory requirements. This therefore represented breach of the Councillors' Code of Conduct.
- 6.6.3 As indicated, the Code of Conduct stipulates conduct regarded as breach; outlines processes to be undertaken by the Speaker to address this matter. Accordingly, the Speaker complied with the requirements of Schedule 7: Councillors' Code of Conduct in addressing the allegations levelled against Councillor Ngiba with regard to non-attendance of meetings.
- 6.6.4 The Speaker also consulted with the Legal and Compliance Unit to confirm processes to be followed to handle the case of Councillor Ngiba. Attention is then drawn to item 15(1) of Schedule 7: Code of Conduct for Councillors which reads:
- “15. Breaches of Code – (1) If the speaker of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the speaker must-***
- (a) authorise an investigation of the facts and circumstances of the alleged breach;*
  - (b) give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and*
  - (c) report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.”*

- 6.6.5 To commence with the process, the Speaker issued a letter to Councillor Ngiba, using contact details in possession by his office as per the existing records, and in terms of the content of the letter, the Speaker gave Councillor Ngiba opportunity to respond to the allegations levelled against him. It should be noted that the Office of the Speaker was not notified of any change of contact details, hence, the use of details contained in the records.
- 6.6.6 The Speaker was further alerted by Legal and Compliance Unit of the provision in terms of item 5 of the Code of Conduct which reads:
- “5. Sanctions for non-attendance of meetings-(1) A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for-*
- (a) Not attending a meeting which that councillor is required to attend in terms of item 4; or*
  - (b) Failing to remain in attendance at such a meeting;*
- (2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 4, must be removed from office as a councillor*
- (3)(a) Proceedings for the imposition of a fine the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item.*
- (b) The uniform standing procedure must comply with the rules of natural justice.”*
- 6.6.7 The Municipal Council adopted Uniform Standing Procedure (USP) in June 2022. However, the Speaker submitted a further request at the Council meeting of 30 March 2023, seeking authority to use Council-approved USP to process allegations of non-attendance of meetings and comply with the provision of item 3(a) above, which authority was granted accordingly by the Municipal Council.
- 6.6.8 Council should note that the Speaker has complied with the requirements as outlined above, but there has been no response received from Councillor Ngiba, as per the requirements in relation to the breach of the Councillors’ Code of Conduct.
- 6.6.9 Based on the processes undertaken by the Speaker, and with no response received from Councillor Ngiba after giving him the opportunity to make his presentation, it is recommended that item 5(2) of the Councillor’ Code of Conduct be invoked, which indicates that a Councillor who is absent from three or more consecutive meetings of a Municipal Council, or from three or more consecutive meetings of a committee which that Councillor is required to attend, must be removed from office as a Councillor.
- 6.6.10 The Council’s attention was further drawn to the fact that Council Members receive monthly allowances as elected public representatives. The payment of such allowances is regulated through the Government Gazette, determining upper limits for payment of salaries, allowances, and benefits of different Municipal Councils, and is terminated when a Councillor ceases to be a Member of Council.

It being noted that, currently, there is no statutory provision for Council to suspend payment of allowance, hence Councillor Ngiba is still receiving his allowance. Mention was made that payment is not based on the number of meetings attended and/or not attended. Therefore, the allowance may only be terminated when one ceases to be a Councillor.

- 6.6.11 Given the above-mentioned, Council noted that Councillor Ngiba is still in receipt of his monthly allowance, until such time that he ceases to be a Member of Council.
- 6.6.12 The Speaker then officially tabled his report in compliance with item 15(1)(c) of the Code of Conduct, it being clarified that the report would not have been brought to Council prior to finalising the above-mentioned steps, and that this process has been undertaken to avoid unnecessary legal interdictions.

**Following the tabling of the report by the Speaker, time being 11h08, the DA and the ANC requested three (03) and fifteen (15) minutes respectively for Caucus. The request was accordingly granted by the Speaker. Thereafter, the meeting subsequently resumed at 11h42.**

**Commencing with discussion, the DA submitted that service delivery has been compromised in Ward 101 in the absence of the Ward Councillor for such a prolonged period. That the DA Councillor is inundated with responsibilities but execution is a challenge at times in the absence of office space. That a selective approach has been adopted in this regard since in the case of the resignation of the Ward Councillor in Ward 73 the PR Councillor was then permitted to use the Ward Councillor office.**

**The DA requested a legal opinion on what they strongly viewed as failure by the Speaker to take prompt actions against Councillor Ngiba. Also citing that other Councillors with similar offences have been referred to the Ethics Committee. Secondly, the DA cited wasted Council resources with tools of trade still allocated to Councillor Ngiba and with him receiving monthly allowance. That accountability should be achieved for public funds.**

**Speaking on the matter, the EFF welcomed the report and the recommendations by the Speaker, but emphasised that the matter has been long overdue, with the people of Ward 101 being compromised in terms of service delivery.**

**Also commenting on the matter, the IFP welcomed the report, however, the conduct of the Speaker was considered disappointing given the length of time which has lapsed prior to submitting the matter to Council. They were of the view that the Speaker should also be held accountable and be subjected to appear before the Ethics Committee to account for public funds lost in this regard. Further, for the residents of Ward 101 having been negatively affected by the absence of the Ward Councillor for such a long period.**

**The ACC noted the report and submitted that the Speaker should exercise accuracy and impartiality in handling this matter. They shared similar views that of prolonging decision-making on this matter and also a need to recover lost funds from a party to be held accountable.**



Meanwhile, the ActionSA stated the issue of Councillor Ngiba has been raised on numerous occasions and also resulted in picketing against the Office of the Speaker. Enquiry was made on measures to be implemented to recover payments made to Councillor Ngiba during his absence. Further, requested information on the date contained in the letter served him. The AIC also joined the notion of recovering funds and enquired the legality surrounding this matter

The ACDP shared similar views that the case has taken long to address and thus financial loss suffered by the Council. Hence, the notion of holding the Speaker to account was supported. Reference being also made to the Council meeting held the previous year where irregular expenditure was incurred due to non-attendance by certain Members and thus the cancellation of meeting without exhausting the business of the day.

On the other hand, the APF commended the Speaker for acting in an appropriate manner to resolve the matter to avoid unnecessary legal interdictions. The ADEC supported views of the majority, advising of a need to conduct an investigation to probe the issue of delaying decision on this matter which is evidence that the Speaker flouted the very same Rules he is responsible for overseeing compliance therewith

The DLC welcomed the recommendations, however, expressed concern about the irregular use of taxpayers' funds with Ngiba still receiving his monthly allowance. Emphasis being put that the Code of Conduct should be applied precisely and timeously. Recovery of funds was considered an option to be explored and that consideration be given to implement consequence management.

Contributing in the discussion, the ANC commended the Speaker for handling the case of Councillor Ngiba in a professional manner and in compliance with legislative requirements applicable thereto. The ANC displayed empathy for the painful and unfortunate situation facing the residents of Ward 101, confirmation being given though that continued service delivery has been provided in this area.

Speaking on the legality surrounding the matter, the Head: Legal and Compliance confirmed that the Speaker has complied with the necessary processes in addressing this matter, and which process culminated in the submission of the report under discussion and with sanctions being proposed for approval by the Council.

Responding to a series of comments on what was regarded as failure by the Speaker to perform his functions in relation to the case of Councillor Ngiba, the Head advised that the powers reside with Council to take necessary steps. He then referred to Section 39 (b) of the Local Government: Municipal Structures Act No. 117 of 1998, as amended, which specifies that "*The Speaker of a Municipal Council vacates office during the term if that person:- (a) resigns as a Speaker, (b) is removal from office and (c) ceases to be a councillor.*"

Speaking on another unanimous view by most Councillors pertaining to the recovery of allowance paid Ngiba, the Head advised that issues of irregular expenditure are dealt with as per the process informed by the Local Government: Municipal Finance Management Act No. 56 of 2003.

**That, where applicable, the matter is also handled by the Ethics Committee and/or the Municipal Public Accounts Committee.**

**Subsequently, the Speaker welcomed comments and criticism directed at him in relation to the process followed to handle the allegations levelled against Councillor Ngiba. However, he maintained that he acted within the requirements of applicable legal prescripts and in the best interest of the Municipal Council to avoid legal interdictions. That, there is no legal requirement for his office to suspend payment of Councillor allowance or remove a Councillor from the office. He advised he was open to be investigated though if some Councillors feel he acted untoward in handling this matter and that he will cooperate accordingly in this regard.**

**Thereafter, following a lengthy discussion, and with Council being in support of the recommendations presented by the Speaker, notwithstanding the views submitted in relation to the procedure and timeframes within which to handle the case, it was**

**RESOLVED:**

- 6.6.13 That the Municipal Council notes processes unfolded towards addressing the matter of the alleged breach by Councillor Mzimuni Ngiba, for being absent from three and more consecutive Municipal Council and Committees meetings, which process is outlined in item 15(1) of Schedule 7: Code of Conduct for Councillors, contained in the Local Government: Municipal Structures Act No. 117 of 1998.
- 6.6.14 That the Municipal Council notes finding that Councillor Mzimuni Ngiba is in breach of the Councillors' Code of Conduct by being absent from three (03) and more consecutive meetings of the Municipal Council and Committees that he was required to attend.
- 6.6.15 That, given the finding that Councillor M Ngiba, is in breach of the Councillors' Code of Conduct, the Municipal Council approves the removal of Councillor Mzimuni Ngiba from office as a Councillor, in line with item 5(2) of Schedule 7: Code of Conduct for Councillors contained in the Local Government: Municipal Structures Act, No. 117 of 1998.
- 6.6.16 That, subject to the approval of .15 above, the Municipal Council submit the resolution on the removal of Councillor M Ngiba from the Municipal Council to the MEC for Cooperative Governance and Traditional Affairs, to reaffirm the removal of Council Ngiba as the Ward Councillor in Ward 101, in compliance with the requirements of item 16(2)(e) of Schedule 7: Code of Conduct for Councillors contained in the Local Government: Municipal Structures Act, No. 117 of 1998.

**ADOPTED**

7. **APPLICATIONS FOR LEAVE OF ABSENCE**

**RESOLVED:**

The following Councillors and Amakhosi be granted leave of absence as indicated: -

**COUNCILLORS**

Councillor AD Beesley : 2023-05-31

Personal Commitments

Councillor KPM Cele	:	2023-05-27 To 2023-06-02	Personal Commitments
Councillor F Ismail	:	2023-05-31	Indisposed
Councillor J Jacquire	:	2023-05-31	Personal Commitments
Councillor ZM Mncwango	:	2023-05-31	Personal Commitments
Councillor T Miya	:	2023-05-31	Indisposed
Councillor NP Msibi	:	2023-05-31	Indisposed
Councillor TM Mthethwa	:	2023-05-30 To 2023-05-31	Personal Commitments
Councillor SR Moodley	:	2023-05-25 To 2023-06-12	Indisposed
Councillor EL Singh	:	2023-05-31	Indisposed
Councillor AD Snyman	:	2023-05-31	Indisposed

### **AMAKHOSI**

Inkosi S Mlaba	:	2023-05-31	Personal Commitments
Inkosi JJ Shangase	:	2023-05-31	Personal Commitments
Inkosi EB Shozi	:	2023-05-31	Personal Commitments

**Following the presentation of the leave of absence by the City Manager, time being 12h40, the Speaker requested to amend the order of proceedings. He indicated that Council will first consider the Supplementary Agenda to deal with the adoption of the 2023/2024 Final Budget and then revert back to consider the reports on the Main Agenda, Second Supplementary Agenda and afterwards the meeting will move into In-committee. This was noted, accordingly.**

**At this stage of the proceedings, time being 12h49, the ordinary meeting was adjourned, and the meeting moved into a Special Meeting to consider the 2023/2024 Final Budget. The ordinary meeting later resumed at 17h20.**

8. **DECLARATION OF INTEREST**

It was noted that none of the members of Council had declared any interest on the matters contained in the agenda.

9. **CONFIRMATION OF MINUTES: MEETING HELD ON 2023-04-26; and 2023-04-26 (In-Committee)**

Consideration of the Minutes was deferred to a Special Meeting.

10. **MATTERS ARISING**

Likewise, the item was deferred to a Special Meeting.

11. **QUESTIONS IN TERMS OF SECTION 27 OF THE RULES OF ORDER**

Consideration of the Questions submitted in Terms of Section 27 of the Rules of Order By-Law, as amended was deferred to a Special Meeting. However, it was indicated that the responses to questions will also be sent to the authors.

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**(His Worship the Mayor, Councillor TM Kaunda presented the First Report of the Executive Committee).**

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## **FIRST REPORT OF THE EXECUTIVE COMMITTEE**

(Meeting held 2023-05-23)

- PRESENT :** Executive Committee Members ZP Myeni (Deputy Mayor and Acting Chairperson), A Beetge, Y Govender, NI Madlala, TM Mthethwa, OB Mvubu, BT Ntuli and ZR Sokhabase.
- ABSENT :** Executive Committee Members TM Kaunda (Mayor and Chairperson) (Leave - Indisposed) and MS Nkosi (Leave - Personal Commitments).
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1. **REPORT OF THE GOVERNANCE AND HUMAN RESOURCES COMMITTEE:  
MEETING HELD: 2023-05-10.**

(Page R1)

1.1 **Hosting of Gender-Based-Violence and Femicide Webinar for eThekweni Municipality Employees (19/1/1/4):**

Page 46: Governance and Human Resources Committee - Agenda 2023-05-10

The Committee received a report advising of the Gender-Based-Violence and Femicide Webinar to be hosted by the Human Capital Unit through Microsoft Teams on 15 May 2023. That the webinar is aimed at increasing knowledge and understanding by the eThekweni Municipality employees of the Gender-Based-Violence and Femicide matters, including concepts of gender, sexuality, and human rights. The ultimate objective being the creation of overall awareness and promotion of a culture of acceptance of diversity and inclusion in the workplace. Also, to call for the prevention and elimination of violence against women, girls, LGBTQIA<sup>+</sup> and men.

Upon consideration at the Executive Committee level, an update was provided that the Gender-Based-Violence and Femicide Webinar for eThekweni Municipality Employees has been re-scheduled to 25 May 2023.

With the Committee noting the significance of creating awareness in this regard,

### **COMMITTEE RECOMMENDS:**

- 1.1.1 That the initiative by the Deputy City Manager: Corporate and Human Capital to facilitate the hosting of the Gender-Based-Violence and Femicide Webinar through Microsoft Teams on 25 May 2023, be noted with great appreciation since this will create positive awareness and results in the creation of a culture of acceptance and unity in diversity and inclusiveness in the workplace and subsequently impact productivity in a positive manner.
- 1.1.2 That it be noted that there are no costs involved for the Speakers and Programme Directors to be used for the Gender-Based-Violence and Femicide Webinar referred to in 1.1 above.

**DEFERRED, to a Special Meeting.**

1.2

Request for Authority to Host Disability Management Summit 2023 (4/3/9):

Page 104: Governance and Human Resources Committee - Agenda 2023-05-10

Authority is sought for the Deputy City Manager: Corporate and Human Capital to facilitate the hosting of the Disability Management Summit on 09 June 2023 at the Inkosi Albert Luthuli International Convention Centre. The costs of hosting the summit amounts to R133 700.00 (One Hundred and Thirty-Three Thousand Seven Hundred Rand). The Summit is aimed at promoting transformation for the Municipality to serve the needs of all its employees. The promotion of disability inclusion in the workplace will help address the challenges of unemployment; inequality and poverty and contribute to the overall goal of achieving a more capable state; driving a strong and inclusive economy; as well as building and strengthening the capabilities of South Africans.

The eThekweni Municipality is committed to promoting equal opportunities and values the skills and abilities of People with Disabilities (PWD's). The Council recognises the contribution of all employees and has best interest at heart to adopt a culture that create a working environment in which PWD employees can fully participate.

Recruiting PWDs and working proactively to retain employees when they become disabled is fundamental to the working culture of the Municipality. The Committee was advised that Monthly reports on disability status for the Municipality are provided with a view to enabling effective oversight to be undertaken in this regard.

With this initiative being accepted with great appreciation,

**COMMITTEE RECOMMENDS:**

That authority be granted for the Deputy City Manager: Corporate and Human Capital to incur expenditure in the amount of R133 700.00 (One Hundred and Thirty-Three Thousand Seven Hundred Rand) to host the Disability Management Summit on 09 June 2023 at the Inkosi Albert Luthuli International Conventional Centre, with a view to promoting disability inclusion in the workplace and assist to address the challenges of unemployment; inequality and poverty thus contributing to the overall goal of achieving a more capable state; driving a strong and inclusive economy; as well as building and strengthening the capabilities of South Africans.

**Financial Implications:**

Number of delegates	Amount	Comments
Durban ICC Main Venue (200 pax)	R90 000.00	Refreshments, catering, all-inclusive full day conference package, estimated soft drinks
Technical	R25 000.00	
Contingency fee 10%	R11 500.00	
Subtotal Excl. VAT	R110 000.00	
Vat 15%	R16 500.00	
Total Including VAT	R126 500.00	
2x Sign Language Interpreters @ R600 each x 6 hours	R7 200.00	The duration of the program mandates two sign Language Interpreters.
<b>TOTAL</b>	<b>R133 700.00</b>	

The budget event is provided for under Vote Number:  
33118.22710.30.12120.0000.56300-4.0010 in the 2022/2023 Financial Year.

## **DEFERRED, to a Special Meeting.**

### **2. REPORT OF THE COMMUNITY SERVICES COMMITTEE: MEETING HELD: 2023-05-11.**

(Page R3)

#### **2.1 Request for Authority to Transfer Two Military and Historical Artefacts to Warriors Gate – M.O.T.H. Museum of Militaria (35/2/1/1/1):**

(Page 25: Community Services Committee - Agenda 2023-05-11)

During the Executive Committee, the significance to safeguard, protect and preserve the City's historical artefacts was over-emphasised. Also, that constant monitoring of the artefacts be undertaken during the 10-year lease agreement period; to ensure that the artefacts were not misplaced and to remain the property of eThekweni Municipality while being managed by the Warriors Gate – M.O.T.H. Museum of Militaria. That internal arrangements be made for sufficient capacity to be available to maintain the artefacts at the end of the lease agreement period.

A proposal being made and agreed to, for inclusion of recommendation 2.1.4 as follows; "That upon the return of the two military and historical artefacts from the Warriors Gate – M.O.T.H. Museum of Militaria artefacts after the 10-year lease agreement has expired; Parks, Recreation and Culture Unit be capacitated in terms of handling the artefacts, including preservation thereof."

With the Committee noting the significance to use specialist Museum for the storage and safekeeping of military and historical artefacts,

#### **COMMITTEE RECOMMENDS:**

- 2.1.1 That authority be granted for the Head: Parks, Recreation and Culture, in consultation with all stakeholders affected, to transfer the role of managing and taking responsibility for the two (02) military and historical artefacts, namely, the Ordinance 15 Pounder Barrell Loading 7CWT field guns, from the City Hall Precinct to the Warriors Gate – M.O.T.H. Museum of Militaria for safeguarding, protection, restoring and preservation.
- 2.1.2 That subject to the approval of .1 above, the Head: Parks, Recreation and Culture ensures that all administrative processes are duly followed and, that the KwaZulu-Natal AMAFA & Research Institute is notified accordingly, as the recognised Provincial heritage body in KwaZulu-Natal.
- 2.1.3 That subject to the approval of .1 and .2 above, it be stipulated that the artefacts remain the property of eThekweni Municipality, therefore, authority be granted for the Head: Parks, Recreation and Culture to enter into a 10-year lease agreement, with an option to review, with Warriors Gate – M.O.T.H. Museum of Militaria with regard to the safekeeping of the artefacts.
- 2.1.4 That upon the return of the two military and historical artefacts from the Warriors Gate – M.O.T.H. Museum of Militaria artefacts after the 10-year lease agreement has expired; Parks, Recreation and Culture Unit be capacitated in terms of handling of the artefacts including preservation thereof.

**Financial Implications:**

There are no financial implications regarding the removal of the artefacts. If/where necessary, the transportation and handling of the artefacts can be arranged with the members of the Natal Field Artillery stationed at Lords Ground Military Base.

**DEFERRED, to a Special Meeting.**

3. REPORT OF THE FINANCE COMMITTEE: MEETING HELD: 2023-05-17.

(Page R6)

3.1 Public Tender Awards of eThekweni Municipality for the Month Ended 31 March 2023 (9/1/3):  
(Page 13: Finance Committee - Agenda 2023-05-17)

The Committee noted that the amount of R791 608 970.19 (Seven Hundred and Ninety-One Six Hundred and Eight Thousand Nine Hundred and Seventy Rand Nineteen Cent) was the total value of tenders issued during the month of March 2023.

A submission being made that the Committee had to undertake project site inspections for completed projects as part of its oversight role. It being further submitted that the total value for some of the awarded tenders reflected zero figures; however, clarity was given that those tenders related to panel contracts which were awarded on zero-base contracts; and that the amounts thereof will only be reflected when the service is required. The Committee further noted with appreciation improvement on the decreased number of Section 36 tender awards, which were reported to be 10,9% of the tender values issued during the month of March 2023, it being emphasised that the Municipality had to maintain or improve further on this position.

On the other hand, the Committee observed with dissatisfaction that 0,8% of the total tenders issued during the month of March 2023, were awarded to the youth, mention being made that the figure had to be improved, but in compliance with relevant regulations. Also, that the Municipality had to develop youth empowerment programmes on tender processes as part of transformation.

In view of the foregoing,

**COMMITTEE RECOMMENDS:**

- 3.1.1 That the public tender awards by the City for the month of March 2023, inclusive of awards made in terms of Section 36 of the Supply Chain Management Regulations, as contained in the report by the Acting Head: Supply Chain Management dated 2023-04-18, be noted.
- 3.1.2 That it be noted that where information is available for Wards and registration numbers, it is included in the report, as information used to compile the report is taken from submissions made by the Units.
- 3.1.3 That the Finance Committee calls for additional information on individual awards, where it deems appropriate and necessary to play its oversight role.

3.1.4 That the City Manager reserves the right to investigate the awards with a view to taking disciplinary, criminal and recovery actions where willful and negligent violation of Supply Chain Management Policies and Municipal Finance Management Act provisions are observed.

3.1.5 That the City Manager shall table a report to the Committee relative to the disciplinary, criminal and recovery actions taken, it being recorded that the City Manager can only respond when the reports are available.

**DEFERRED, to a Special Meeting.**

3.2 Quarterly Report on Withdrawals from Municipal Bank Account in Terms of the Municipal Finance Management Act (7/8/6):  
(Page 167 : Finance Committee - Agenda 2023-05-17)

COMMITTEE RECOMMENDS:

3.2.1 That the report on withdrawals from the Municipal bank account as at 31 March 2023, submitted in terms of Section 11(4) of the Municipal Finance Management Act, be noted, it being recorded that the withdrawals relate to the following:

- Section 11(f): To refund money incorrectly paid into a bank account.
- Section 11(g): To refund guarantees, sureties and security deposits.
- Section 11(h): Investment of money not immediately required.

3.2.2 That Council notes that the report on withdrawals will also be submitted to the Provincial Treasury and the National Treasury as well as the Auditor-General, in line with the statutory requirement.

**DEFERRED, to a Special Meeting.**

3.3 Investments Report for the Month Ended 31 March 2023 (7/11/4):  
(Page 170 : Finance Committee - Agenda 2023-05-17)

The Committee noted the Municipal funds invested at different Financial Institutions are recorded to amount to R9 827 Billion, at an average rate of return on investments of 8.32%. Also, that the Municipality has an overdraft facility of R682 Million and the unutilised Capital and Operational Grants as at the end of March 2023 was reported to be R3 387 Million. It being further noted that there was 52 (fifty-two) days cash on hand excluding grants.

During discussions, reservations were expressed regarding the unutilised grants, it being cited that there were two (02) months left before the end of the current financial year, in this regard, the Municipality was encouraged to timeously spend conditional grants to evade these grants being returned to the National Treasury. Submission being made that in future the list of grants received and the figures thereof; be incorporated in the monthly investments report. Further, concerns were expressed on the longest loan maturity date recorded as the year 2037. It being clarified that Council approves loan borrowing to fund the City's infrastructure assets, therefore there were economic benefits being realised in this regard as payment of the loans are in line with the useful life of the assets.

With the Committee noting the deliberations,

COMMITTEE RECOMMENDS:



That the report on investments for eThekweni Municipality as at 2023-03-31, which records the total funds invested at financial institutions as R9 827 000 000.00 (Nine Billion Eight Hundred and Twenty-Seven Million Rand), at an average rate of return on investment of 8,32%, as submitted by the City Manager, in line with the requirements of the Municipal Cash Management and Investment Regulation of the Municipal Finance Management Act, 2003, be noted.

**DEFERRED, to a Special Meeting.**

3.4

Noting of the Proposed Amendment of Contract S5234 for the Manufacture, Supply and Delivery of Toilet paper for a Period of 36 Months in Line with Section 116(3) (a) (b) and (c) of the MFMA (8/1/14/1):

(Page 176 : Finance Committee - Agenda 2023-05-17)

The Committee received a report submitted in compliance with Section 116(3) (a), (b) and (c) of the Local Government: Municipal Finance Management Act No. 56 of 2003 for the proposed amendment of Contract S5234 for the Manufacture, Supply and Delivery of Toilet Paper. The amendment relates to the adjustment of existing awarded Unit Price due to the current economic conditions with raw material and other factors. The Supply Chain Management Unit has been assigned to have a contract in place for Line Departments. The Municipality has a significant number of employees and has a commitment to provide the toilet paper City-wide free of charge. This is in line with the fulfilment of the human rights for the access to basic needs. The suppliers are required to supply and deliver quality product in a form of relevant SABS approved specification offered.

The contracts were awarded to Brimstohn Manufacturing, Bingelelani t/a Softer Tissue and Lumar MP Concept for a period of thirty-six (36) months commencing on 01 August 2022 ending 31 July 2025. This corporate contract covers all Departments and some communities. Background information being given that the three (03) awarded Manufacturers have written to the Municipality requesting for the price increase, following the issues surrounding the industry in production and operational nature of manufacturing and delivering products. Also, part of the background information, the following salient features of the report were noted: -

- (i) Approved Special condition of tender (SCC17) states that “Prices are fixed for the duration of contract” however due to the ongoing cost pressure, suppliers could not hold the awarded prices as the Mill was enforcing price increases.
- (ii) Contract amendment to clause SCC 17 be amended to read as “Price adjustments shall be substantiated by a letter from the Mill confirming percentage increases, which shall be submitted a month prior to its inception for approval and further seek approval from Bid Adjudication Committee if required”.
- (iii) Awarded Suppliers be paid back for price variation of all orders delivered for the Quantities supplied to the Municipality stores for proposed year 1 cost.

It being further noted that Mill and other Industrial Manufactures have issued price increases last year in 2022 during the evaluation and tender award and one price increase (2023) this year.

Accordingly,

COMMITTEE RECOMMENDS:

3.4.1 That Council notes the reasons to amend Contract S5234, in terms of Section 116(3) of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003, for the Manufacture, Supply and Delivery of Toilet Paper for a period of thirty-six (36) months due to the following reasons:

- (i) Input cost due to coal, energy, pulp and paper sector (Mill cost)
- (ii) Increase operational cost in electricity and fuel from suppliers
- (iii) Critical Manufacturing inputs of tissue products - Raw Material (Jumbo Roll)
- (iv) Constrains in Manufacturing capacity (supply and demand has increased significant).
- (v) Price increase of cores

3.4.2 That Council notes the public participation process advertised through the media, in terms of Section 116(3) (b) (i) of the MFMA, as part of achieving compliance requirements pertaining to the public participation process to invite public comments on the proposed contract amendment, it being further noted that no comments were received from the public consultation process.

**Financial Implications:**

Funding for Manufacture, Supply and Delivery of Toilet Paper will be provided in the operational budget to cater for all line departments and Councillors. The details of the current contract S5234, including Unit Rates, and the proposed rates for the Section 116(3) authorisation is shown in table 4.2.2 (Toilet Paper Manufacturers Proposed Cost) in the report of Acting Head : Supply Chain Management dated 2023-02-28.

Below are the proposed amended unit rates per toilet paper roll for year 1:

No.	Manufacturer	Current Price Per Roll Year 1 (Excl. VAT)	Proposed Unit Price per Roll Year 1 (Excl. VAT) 2022	Back Pay Per Roll Year 1 (Excl. VAT) 2022	Proposed Unit Price per Roll Year 1 (Excl. VAT) 2023	Back Pay Per Roll Year 1 (Excl. VAT) 2023
01	Brimstohn manufacturing (PTY) Ltd	R3.52	R4.58	R1.06	R6.08	R1.50
02	Bingeelani t/a Softer Tissue	R3.60	R4.68	R1.08	R6.22	R1.54
03	Lumar MP Concepts and Projects	R3.66	R4.76	R1.10	R6.32	R1.56

**DEFERRED, to a Special Meeting.**

3.5 Noting of the Proposed Amendment of Contract S5257 for the Supply and Delivery of Bond Paper A3 and A4 80g/M Sheet, 90g/M Short Grain and NCR Paper for a Period of 36 Months in Line with Section 116(3) (a) (b) and (c) of the MFMA (8/1/8/1):  
(Page 213 : Finance Committee - Agenda 2023-05-17)

The Committee received a report submitted in accordance with Section 116(3) (a), (b) and (c) of the Local Government: Municipal Finance Management Act No. 56 of 2003 for the proposed amendment of Contract S5257 for the Supply and Delivery of Bond Paper A3 and A4 80g/m sheet, 90g/m Short Grain and NCR Paper for a period of thirty-six (36) months. The Supply Chain Management Unit has been assigned to have a contract in place for Line Departments. The City has a significant number of employees and has an obligation to provide the Bond paper and NCR paper

Municipal-wide. The suppliers are required to supply and deliver quality product in a form of relevant SABS approved specification. The contracts were awarded to Hospanoe cc and Uzamile Trading CC for a period of thirty-six (36) months commencing on 01 August 2022 ending 31 August 2025. The corporate contract covers all Departments and Entities such as Moses Mabhida and the Inkosi Albert Luthuli Durban International Convention Centre. In motivating the submission, the following salient features of the report were also noted:-

- (i) Approved Special condition of tender (SCC17) states that “Prices are fixed for the duration of contract” however due to the ongoing cost pressure, suppliers could not hold the awarded prices as the Mill was enforcing price increases.
- (ii) Contract amendment to clause SCC 17 be amended to read as “Price adjustments shall be substantiated by a letter from the Mill confirming percentage increases, which shall be submitted a month prior to its inception for approval and further seek approval from Bid Adjudication committee if required”.
- (iii) Awarded Suppliers be paid back for price variation of all orders delivered for the Quantities supplied to the Municipality stores for proposed year 1 cost.

It being further noted that Mill have issued price increases last year in 2022 during the evaluation and tender award one price increase this year (2023):

**The Tables below outlines changes from the original awarded prices to the proposed increases:**

**Bond Paper Increase (Uzamile Trading):**

No.	TYPE OF PAPER	DESCRIPTION	Current Unit Price Per Ream - Year 1 (Excl. VAT)	Percentage Increase (13%)	Percentage Increase (11%)	Percentage Increase (9%)
01	REAMS WHITE	A4 WHITE BOND PAPER 80 GRAMS	<b>R60.00</b>	R67.80	R75.26	R82.03
02	REAMS MINT	A4 COLOURED BOND PAPER 80 GRAMS	<b>R109.00</b>	R127.53 (17% increase)	-	-
03	REAMS CHERRY	A4 COLOURED BOND PAPER 80 GRAMS	<b>R109.00</b>	R127.53 (17% increase)	-	-
04	REAMS SKY	A4 COLOURED BOND PAPER 80 GRAMS	<b>R109.00</b>	R127.53 (17% increase)	-	-
05	REAMS CANARY	A4 COLOURED BOND PAPER 80 GRAMS	<b>R109.00</b>	R127.53 (17% increase)	-	-
06	REAMS WHITE	A3 WHITE BOND PAPER 80 GRAMS	<b>R135.00</b>	R148.50	R164.83	R179.66

No.	TYPE OF PAPER	DESCRIPTION	Current Unit Price Per Ream - Year 1 (Excl. VAT)	Percentage Increase (13%)	Percentage Increase (11%)	Percentage Increase (9%)
07	REAM	SHORT GRAIN 80G WHITE BOND PAPER 620X930MM	<b>R1300.00</b>	(5% increase) R1365.00	(4% increase) R1419.60	(5% increase) R1490.58

**Bond Paper Increase (Hospanoe):**

No.	TYPE OF PAPER	DESCRIPTION	Current Unit Price Per Ream - Year 1 (Excl. VAT)	Percentage Increase (10%)	Percentage Increase (11%)	Percentage Increase (9%)
01	REAMS WHITE	A4 WHITE BOND PAPER 80 GRAMS	<b>R59.00</b>	R66.67	R74.00	R80.66
02	REAMS MINT	A4 COLOURED BOND PAPER 80 GRAMS	<b>R94.00</b>	R109.98 (17% increase)	-	-
03	REAMS CHERRY	A4 COLOURED BOND PAPER 80 GRAMS	<b>R94.00</b>	R109.98 (17% increase)	-	-
04	REAMS SKY	A4 COLOURED BOND PAPER 80 GRAMS	<b>R94.00</b>	R109.98 (17% increase)	-	-
05	REAMS CANARY	A4 COLOURED BOND PAPER 80 GRAMS	<b>R94.00</b>	R109.98 (17% increase)	-	-
06	REAMS WHITE	A3 WHITE BOND PAPER 80 GRAMS	<b>R119.00</b>	R130.90	R145.29	R158.36
07	REAM	SHORT GRAIN 80G WHITE BOND PAPER 620X930MM	<b>R1186.00</b>	(5% increase) R1245.30	(4% increase) R1295.11	(5% increase) R1359.86

At the Executive Committee level, administrative processes with regards to the supply chain management procedures were acknowledged. However, reservations were also expressed on what was viewed as continuous use of Section 116 (3) and Section 36 of the Local Government: Municipal Finance Management Act No. 56 of 2003 (MFMA), mention being made that this was previously flagged by the National Treasury and the Auditor-General as a cause for some of the irregularities.

On the other hand, provision of essential items not being prioritised, including supply of printing and toilet papers was perceived as a hinderance to service delivery. However, it being noted that the availability of these items was impacted by the level of stock in the industry following the flood damages. The Municipality was requested to be proactive in future to avoid Municipal operations being halted. Notwithstanding

that the World was transitioning to the 4<sup>th</sup> Industrial Revolution and that other processes would be undertaken through digital platforms; indication was given that a need still exists for printing and distribution of some documents.

Administration being tasked to ensure sufficient printing paper is available, also sufficient printing machines in good working condition to avoid inconveniencing the Municipal processes which later even inconvenience the members of the public due to failure to supply them with documents required from the Municipality.

With assurance being given that an investigation has commenced on the utilisation of Section 116 (3) and Section 36 of the MFMA,

**COMMITTEE RECOMMENDS:**

3.5.1 That Council notes the following reasons necessitating the amendment of Contract S5257, in terms of Section 116 (3) of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003, for the Supply and Delivery of Bond Paper and NCR paper for a period of thirty-six (36):

- (i) Force Majeure relating to the impact on supply of paper due to the flooding of Mill.
- (ii) Input cost relating to the production and delivery of paper from Merebank operation.
- (iii) Cost in coal, energy, water, transport pulp.

3.5.2 That Council notes the public participation process was advertised through the media, in terms of Section 116(3)(b)(i) of the MFMA, as part of achieving compliance requirements pertaining to the public participation process to invite public comments on the proposed contract amendment, it being further noted that there were no comments received from the public consultation process.

**Financial Implications:**

Funding for Supply and Delivery of Bond Paper and NCR paper will be provided in the operational budget to cater for all line departments and Councillors. The details of the current contract S5257, including Unit Rates, and the proposed rates for the Section 116(3) authorisation is shown in table 4.4 (Price Comparison - Current with proposed prices) in the report of Acting Head : Supply Chain Management dated 2023-02-28.

Below are the proposed amended unit rates per ream for year 1 price per item:

**1. Bond Paper Only:**

NO	ESTIMATED QUANTITIES	TYPE OF PAPER	DESCRIPTION	UZAMILE TRADING Proposed Unit Price per Ream Year 1 (excl. VAT)	HOSPANOE cc Proposed Unit Price per Ream Year 1 (excl. VAT)
01	1 500 000	Reams White	A4 White Bond Paper 80 Grams	<b>R82.03</b>	<b>R80.66</b>
02	5 000	Reams Mint	A4 Coloured Bond Paper 80 Grams	<b>R127.53</b>	<b>R109.98</b>
03	5 000	Reams Cherry	A4 Coloured Bond Paper 80 Grams	<b>R127.53</b>	<b>R109.98</b>

NO	ESTIMATED QUANTITIES	TYPE OF PAPER	DESCRIPTION	UZAMILE TRADING Proposed Unit Price per Ream Year 1 (excl. VAT)	HOSPANOE cc Proposed Unit Price per Ream Year 1 (excl. VAT)
04	6 000	Reams Sky	A4 Coloured Bond Paper 80 Grams	<b>R127.53</b>	<b>R109.98</b>
05	5 000	Reams Canary	A4 Coloured Bond Paper 80 Grams	<b>R127.53</b>	<b>R109.98</b>
06	10000	Reams White	A3 White Bond Paper 80 Grams	<b>R179.66</b>	<b>R158.36</b>
07	2 700 000	Ream	Short Grain 80g White Bond Paper 620x930mm	<b>R1490.86</b>	<b>R1359.86</b>

**2. NCR Paper Only:**

NO	ESTIMATED QUANTITIES	TYPE OF PAPER	DESCRIPTION	HOSPANOE cc Proposed Unit Price per Sheet Year 1 (excl. VAT)
01	75 000	CB 55 grams sheet	A3 White NCR paper	<b>R0.76</b>
02	75 000	CFB 60 grams sheet	A3 White NCR paper	<b>R0.80</b>
03	75 000	CB 55 grams sheet	A3 White NCR paper	<b>R0.66</b>
04	30 000	CB 55 grams sheet	A3 Yellow NCR paper	<b>R0.75</b>
05	30 000	CFB 60 grams sheet	A3 Yellow NCR paper	<b>R0.83</b>
06	30 000	CB 55 grams sheet	A3 Yellow NCR paper	<b>R0.69</b>
07	30 000	CB 55 grams sheet	A3 Green NCR paper	<b>R0.75</b>
08	30 000	CFB 60 grams sheet	A3 Green NCR paper	<b>R0.83</b>
09	30 000	CB 55 grams sheet	A3 Green NCR paper	<b>R0.69</b>
10	30 000	CB 55 grams sheet	A3 Blue NCR paper	<b>R0.75</b>
11	30 000	CFB 60 grams sheet	A3 Blue NCR paper	<b>R0.83</b>
12	30 000	CB 55 grams sheet	A3 Blue NCR paper	<b>R0.69</b>
13	30 000	CB 55 grams sheet	A3 Pink NCR paper	<b>R0.75</b>
14	30 000	CFB 60 grams sheet	A3 Pink NCR Paper	<b>R0.83</b>
15	30 000	CB 55 grams sheet	A3 Pink NCR Paper	<b>R0.69</b>
16	15 000	CB 55 grams sheet	A3 Buff Tag Board	<b>R2.00</b>

**DEFERRED, to a Special Meeting.**

3.6

Budget Statement Report for the Month Ended 30 April 2023 (7/1/4):  
(Page 247: Finance Committee - Agenda 2023-05-17)

In giving an overview, the Head: Expenditure took the meeting through the salient features of the report relative to the actual operating revenue of 99% of the year-to-date budget, with a variance of -1%, and revenue generated to date is 87.2%. The actual operating expenditure reported as a percentage of year-to-date budget figure is 95% with a variance of -5% and Operating Expenditure spent to date is 76,5%. The reported capital expenditure is 98% of the budget with a variance of -2% and the capital year to date spent is 48.4%. A cash collection of 93.17% as at the end of April 2023 was

reported, and slightly lower when compared to the same period in the previous year (94%).

Upon deliberations, the Committee unanimously stressed that debt collection strategies be strengthened to recover monies owed by customers including Government Departments, Ingonyama Trust and Parastatals. Irregular expenditure, unread water, and electricity meters for prolonged periods, underspending on maintenance budget, lack of capacitation of the supply chain management unit; also, being cited as a hindrance to sound financial management. A request being made for submission of an update report on the Court case between the Municipality and Tansnat, as some members were of the view that an interim report detailing the status quo and not the actual evidence can be shared with the Committee for information purposes. In this regard, a response being given, that it will be premature for the Committee to discuss the matter while the Court case was ongoing, and therefore, the report would be submitted to the Committee once the matter has been concluded.

At the Executive Committee level, the significance of strengthening revenue collection strategies was reiterated, it being cited that the Municipality should strive to enforce measures to address water and electricity illegal connections throughout the Municipality. Mention being made that funds to be recovered from debtors will also assist the Municipality to fastrack purchasing and installation of SMART meters.

In view of the foregoing,

**COMMITTEE RECOMMENDS:**

- 3.6.1 That the Budget Statement report for the month ended 2023-04-30 and the supporting documents, submitted by the City Manager as per his report dated 2023-05-12, in compliance with Section 71 of the Municipal Finance Management Act 56 of 2003 and in terms of Government Notice 32141 dated 17 April 2009, relating to the “Local Government: Municipal Finance Management Act 2003, the Municipal Budget and Reporting Regulations”, be noted.
- 3.6.2 That in compliance with Section 32(2) of the Municipal Finance Management Act, Council notes the Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) incurred for the month of April 2023 reported by the line departments as detailed in section 10 of the Budget Statement Report.
- 3.6.3 That Council refers that the UIFW referred to in .2 above to the Municipal Public Accounts Committee (MPAC) for investigation into the recovery or write-off of the said expenditure in terms of Section 32(2)(b) of the Municipal Finance Management Act and request MPAC to report back to Council on the outcome of its investigations.

**DEFERRED, to a Special Meeting.**

- 3.7 Investments Report for the Month Ended 30 April 2023 (7/11/4):  
(Page 218: Finance Committee - Agenda 2023-05-17)

The Committee noted the Municipal funds invested at different Financial Institutions are recorded to amount to R9 279 Billion, at an average rate of return on investments of 8.50%. Also, that the Municipality has an overdraft facility of R682 Million and the unutilised Capital and Operational Grants as at the end of April 2023 was reported to be R3 569 Million. It being further noted that there was 46 (forty-six) days cash on hand excluding grants.

Accordingly,

**COMMITTEE RECOMMENDS:**

That the report on investments for eThekweni Municipality as at 2023-04-30, which records the total funds invested at financial institutions as R9 279 000 000.00 (Nine Billion Two Hundred and Seventy-Nine Million Rand), at an average rate of return on investment of 8,50%, as submitted by the City Manager, in line with the requirements of the Municipal Cash Management and Investment Regulation of the Municipal Finance Management Act, 2003, be noted.

**DEFERRED, to a Special Meeting.**

4. REPORT OF THE SECURITY AND EMERGENCY SERVICES COMMITTEE:  
MEETING HELD: 2023-05-18.

(Page R13)

4.1 Approval of Terms of Reference for the Security & Emergency Services Committee:  
(Page 26 : Security and Emergency Services Committee - Agenda 2023-05-18)

It will be recalled that through a Council decision, the Security and Emergency Services Committee was established. This then gave rise to a need to separate the Terms of Reference of this Committee. Accordingly, the Legal and Compliance Unit initiated the process which culminated in the submission of the draft Terms of Reference document to the Committee.

The Committee invested time to unpack the draft Terms of Reference document during its workshop held on 21 April 2023. With the Committee having finalised the document and accepting that it covers areas falling within the jurisdiction of the Committee's core functions,

**COMMITTEE RECOMMENDS:**

That, in noting the previous Council decision to establish the Security and Emergency Services Committee, the Executive Committee approves the Terms of Reference developed for this Committee and recommend same to Council, it being recorded that the Terms of Reference focuses on the Committee's core functions to formulate policies and monitor implementation within the following functional areas:

- a) Metro Police Services;
- b) Civilian Oversight Functions;
- c) Disaster Management;
- d) Firefighting Services;
- e) Safer Cities; and
- f) Security Management
- g) Integrated Development and Planning, Budgets and Budgetary Control;
- h) Make recommendations with regard to the setting or revision of tariffs, taxes, levies
- i) To develop draft By-laws on matters incidental to the Committee's Terms of Reference

**DEFERRED, to a Special Meeting.**



4.2

Request for Authority to Transfer Savings Declared by the Safer Cities in the 2022-23 Financial Year to the Parks, Culture and Recreation Unit (28/1/4):

(Page 183 : Security and Emergency Services Committee - Agenda 2023-05-18)

The Safer Cities had made provisions of R8.1 million on its capital budget for the purpose of constructing Inner City Homeless Safe Sleeping Space at Block AK in Greyville, Durban. The site which was earmarked for this building subsequently became unavailable. This resulted in a nearby site in the Corner of Osborne and Gladys Manzi Roads (Erf Rem of 1589) being identified for this purpose. This is a vacant land which needs to be assessed in line with the requirements of the Land Use Management Scheme.

With the land process not to be finalised given the imminence of the financial year, it is considered prudent to transfer the savings declared to the Parks; Recreation and Culture Unit for the purpose of purchasing tractors and improve the level of service delivery. Given the significance of addressing homelessness within the City, an arrangement has been made with the PRC Unit that the funding being transferred will be returned in the new financial year budget to enable the Safer Cities to fulfil its mandate of constructing the facilities required to address the issue of homelessness.

At the Executive Committee level, the bold and progressive initiative by the Municipality through Safer Cities Unit was welcomed. Mention being made that homelessness was a global challenge, it being noted that other Cities have also embarked on similar initiatives as part of mitigation measures to address this challenge, therefore; the Municipality was commended for being proactive in this regard; also, for being able to benchmark and partner with other Cities to share possible ideas and interventions.

Information being given that the Municipality will undertake the screening process to determine the total number of homeless people within the City, identifying those in need of identification documents, to ascertain the number of foreign nationals etc in homeless safe sleeping space. It being reiterated that the Unit is currently addressing land issues and once all matters related thereto have been concluded; all processes to finalise construction of the sleeping space will commence. Meanwhile, assurance was given that update report on the status of all shelters established during the Covid-19 pandemic period will be submitted to the Executive Committee. That a report thereon should include the number of people still being housed in these facilities; relief mechanism still supplied by the Municipality and other Non-Governmental Organisations and Non-Profit Organisations.

With the Committee being satisfied that the arrangement made present a win-win solution;

**COMMITTEE RECOMMENDS:**

4.2.1

That the Committee notes that an amount of R8 100 000.00 (Eight Million One Hundred Thousand Rand) under the capital budget of the Safer Cities Unit is declared as savings in the current 2022-23 financial year, in view of a lengthy process to be followed to finalise the suitability of the land identified for the Inner City Homeless Safer Sleeping Space Facility in the Corner of Osborne and Gladys Manzi Roads (Erf Rem of 1589), in line with the Land Use Management Scheme.

4.2.2 That, subsequent to the approval of .1, authority be granted for the Deputy City Manager: Community and Emergency Services to transfer funds in the amount of R8 100 000.00 (Eight Million One Hundred Thousand Rand) from the Safer Cities Unit to the Parks, Recreation and Culture Unit in the current 2022/2023 financial year for the procurement of tractors, as detailed in the report of the Head: Safer Cities dated 2023-05-05.

4.2.3 That it be noted that, in terms of the agreement reached, the Parks, Recreation and Culture Unit will transfer the funds referred to in .2 above back to the Safer Cities Unit upon the approval of the 2023/2024 financial year for the Safer Cities to continue fulfilling the mandate of constructing a facilities for homeless people within the Inner City of eThekweni.

**Financial Implications:**

**Transfer to be actioned from the Vote below:**

BU	ITEM	FUNDING	COSTING	PROJECT	REGION
24511	45304.22	91104	0000	N2684	W026

**To the Vote below:**

BU	ITEM	FUNDING	COSTING	PROJECT	REGION
18001	44245	30015	0000	PC8800	0010

**DEFERRED, to a Special Meeting.**

5. **DIRECT EXCO REPORTS**

5.1 **NOTING OF SALARY AND WAGE INCREASE FOR GENERAL STAFF FOR THE PERIOD 01 JULY 2023 TO 30 JUNE 2024 (4/5/1/1)**

(Page 112)

The Executive Committee received a report on the salary and wage increase of the general staff for the 2023/2024 financial year. Background information being given that, in its meeting of 14 March 2023, the Bargaining had reached consensus on the salary and wage collective agreement.

It being noted that the Municipality had made a budget provision for cost-of-living increase at the rate of five comma five percent (5.5%), which is above the SALGA approved salary and wage increase of five comma four percent (5.4%). Also, that the performance rewards have been unpaid for the past two (02) years, the 2020/2021 financial year a once off payment was approved for levels below Task Grade 09 only, and that performance rewards for the period 2021/2022 is under discussion at South African Local Government Bargaining Council (SALGBC) but has not been paid, and that this affects the employees notch increase, and standard of living for Municipal employees. It being further noted that failure to implement the salary and wage increase may lead to unnecessary strike action which could also lead to tension between workers and management thereby affecting provision of service delivery.

While noting the report, the DA expressed reservations on the proposed increase, citing low productivity in terms of service delivery. However, other members took into cognisance that salary and wage increases were discussed at the National level of the

Bargaining Council and the agreement was being applied to all Municipalities. That the issue of low productivity to be dealt with parallel with discussions on performance management and payment of bonuses thereof. The attention was also drawn to the fact that the Municipality should be a caring employer to its employees, taking into account the economic hardships, thereby improving morale to subsequently improve productivity.

Subsequently,

COMMITTEE RECOMMENDS:

- 5.1.1 That Council notes the salary and wage increase in respect of the 2023/2024 financial year for the period from 01 July 2023 to 30 June 2024, it being recorded that this agreement was made by SALGA, and two Municipal employees Unions and as per the salary and wage collective agreement dated 15 September 2021 shall be as follows:
- a) The salary and wage increase in terms of Clause 6.6 and 6.7 of the collective agreement shall be five comma four percent (5.4%) with effect from 01 July 2023.
  - b) Any linked benefits or conditions of service as per Clause 11.1 of the collective agreement shall increase by the same rate of five comma four percent (5.4%) with effect from 01 July 2023.
  - c) The minimum wage as stipulated in Clause 7.3 of the collective agreement shall increase with the same rate of 5.4% from R9043.21 (Nine Thousand and Forty-Three Rand Twenty-One Cent) to R9531.54 (Nine Thousand Five Hundred and Thirty-One Rand Fifty-Four Cents). The new minimum wage shall be R9531.54 (Nine Thousand Five Hundred and Thirty-One Rand Fifty-Four Cents) with effect from 01 July 2023.
  - d) The flat rate homeowners' allowance in terms of Clause 9.1.9 of the collective agreement shall increase by the same rate of five comma four percent (5.4%) from R1011.77 (One Thousand and Eleven Rand Seventy-Seven Cents) to R1066.41 (One Thousand and Sixty-Six Rand Forty-One Cent) with effect from 01 July 2023.
  - e) In respect of medical aid, the maximum employer contribution to an employee's accredited medical scheme as out in Clause 10.1.3 of the collective agreement shall increase by the same rate of five comma four percent (5.4%) from R5007 (Five Thousand and Seven Rand) to R5277.38 (Five Thousand Two Hundred and Seventy-Seven Rand Thirty-Eight Cents) with effect from 01 July 2023.
  - f) The CPI projected figures from South African Reserve Bank are used to calculate the salary and wage related increase.
- 5.1.2 That Council notes that cost of living increase has been budgeted at the rate of five comma five percent (5.5%) which is above the SALGA approved salary and wage increase of five comma four percent (5.4%).
- 5.1.3 That Council notes that the performance rewards have been unpaid for the past two (02) years, the 2020/2021 financial year a once off payment was approved for levels below Task Grade 09 only, and performance rewards for the period 2021/2022 is under discussion at South African Local Government Bargaining Council (SALGBC) but

has not been paid, which this affects the employees notch increase, and standard of living for municipal employees.

**DEFERRED, to a Special Meeting.**

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(His Worship the Mayor, Councillor TM Kaunda presented the Third Report of the Executive Committee).

*Following tabling of the report by His Worship the Mayor, time being, 17h26, the EFF requested five (05) minutes for a caucus, the request was granted by the Speaker. Thereafter, the meeting resumed at 17h26.*

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### **THIRD REPORT OF THE EXECUTIVE COMMITTEE**

(Meeting held 2023-05-30)

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PRESENT : Executive Committee Members TM Kaunda (Mayor and Chairperson), ZP Myeni (Deputy Mayor), A Beetge, NI Madlala, TM Mthethwa, OB Mvubu, MS Nkosi, BT Ntuli and ZR Sokhabase.

ABSENT : Executive Committee Members TM Mthethwa (Personal Commitments) and Y Govender.

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1. REPORT OF THE COMMUNITY SERVICES COMMITTEE: SPECIAL MEETING HELD: 2023-05-24

(Page R1)

1.1 Request for Additional Funding to Implement and Pay Service Providers for the Approved Programmes within the Community Participation and Action Support Unit During the 2022-23 Financial Year (7/1/3/2):

(Page 58: Community Services Committee - Agenda 2023-05-22)

Authority is sought for the identification of savings in the amount of R6 000 000.00 to implement approved programmes within the Community Participation and Action Support Unit for the remainder of the financial year. The funds will also be used to pay service providers for work undertaken.

The Community Participation and Action Support (CPAS) Unit is of a strategic nature within the Municipality in view of facilitating the public participation process, which is undertaken as per the legislative requirements. Therefore, public participation activities are undertaken to achieve the necessary compliance requirements in fulfilment of the mandate of the Municipality.

Like any other Units within the Municipality, the CPAS experienced budget cuts and thus impacting funding for the implementation of certain programmes. The Committee noted that operating budget in the amount of R242 060 230.00 (Two Hundred and Forty-Two Million and Sixty Thousand Two Hundred and Thirty Rand) was approved for the 2022/2023 financial year for the CPAS Unit to fund the following line items:

- General Expenses – R170 445 830.00
- Salaries – R 71 308 100.00
- Repairs and Maintenance – R 306 300.00
- TOTAL – R242 060 230.00

It was advised that General Expenses budget of R170 445 830.00 (One Hundred and Seventy Million Four Hundred and Forty-Five Thousand Eight Hundred and Thirty Rand) for the current financial year is considered insufficient to implement the Unit Programmes.

The attention is drawn to the fact that the budget available as at 31 March 2023 under General Expenses is R50 538 624.00 (Fifty Million Five Hundred and Thirty-Eight Thousand Six Hundred and Twenty-Four Rand) and this budget amount includes expenditure which are committed and therefore cannot be utilised for other programmes or purposes.

It was highlighted that the CPAS Unit was not considered for the allocation of funding during the mid-term adjustment process, except the funding allocated to regularize overtime and fuel costs over-expenditure.

The DA abstained at the Support Committee level while other Political Parties present supported the matter.

The Executive Committee looked into this matter enquiring whether this request for additional funding is linked to poor planning, as budget cuts cited should have also meant activities aligning with the budget available. However, attention was drawn to other key elements such as soup kitchens that need to be run effectively to support needy people. On the other hand, inflation has hit hard on perishables which is key ingredient for the soup kitchens. Therefore, increment was unavoidable hence additional funding requirement is also unavoidable

In view of explanation given above, either than the DA abstaining, other Political Parties present supported the matter.

Accordingly,

#### COMMITTEE RECOMMENDS:

That authority be granted to the Head: Community Participation and Action Support, in conjunction with the Deputy City Manager: Finance, to identify savings and allocate funding in the amount of R6 000 000.00 (Six Million Rand) to enable the Community Participation and Action Support Unit to continue with the implementation of the approved programmes for the remainder of the 2022/2023 financial year and to pay service providers who have rendered services to this Unit.

#### **Financial Implications:**

Net budget available as at 31 March 2023, is as follows:

DETAILS	AMOUNT
Budget Available	R50 538 624.00
Less: Expenditure Committed	R46 629 980.00

DETAILS	AMOUNT
Salaries and Allowances	R10 835 493.00
Poverty Relief (24410-19)	R23 078 509.00
Vehicle Hire – City Fleet (27999-7192)	R 3 132 230.00
Stipends - Volunteers (19000)	R 3 968 098.00
Grant-in-Aid (25030-17)	R 5 615 650.00
<b>Net Budget Available as at 31 March 2023</b>	<b>R 3 908 644.00</b>

**As some members were not in support of the recommendations; therefore, the matter was put to the vote. With 173 Councillors present, 124 Councillors (ANC - 83, EFF – 16; IFP -15; ABC – 01; Action SA -02, ACC - 01, DLC – 00; ADEC – 00; APF – 00; AIC- 00; ATM -00; ALJAMAH – 00; JEP -01; KZNI – 01, MOSA- 00; NFP - 01; PRM – 01; PFP – 00; TA- 00; UIM – 01 and VF Plus – 01) voted in favour of the recommendations and 49 Councillors (DA – 46, ACDP – 02; and MF – 01) abstained on the matter.**

**The above recommendations were, by the majority vote, **ADOPTED**.**

1.2 Request for Approval for the Health Unit to Enter into a Memorandum of Agreement with Chatsmed Candlelight Nursing School FET for Clinical Practical Student Placement (6/1):

(Page 60: Community Services Committee - Agenda 2023-05-22)

The Committee noted that the eThekweni Municipality Health Unit has a quality assurance and training section that seeks to improve quality of service provided to the community and citizens of eThekweni through capacity building for clinical and non-clinical staff and improved service standards as aligned with National Department of Health and NHI prescripts. This is also made possible by ensuring that Municipal clinics provide placement for clinical training for students.

Apart from our Municipal staff, institutions of higher learning that trains different cadres of health care workers (Doctors, Pharmacists, nurses etc) also utilises health facilities for clinical training, exposure and acquisition of skills as a requirement by different Health Governing Councils. On such basis, it was noted that Health Unit currently works with Universities/Colleges around eThekweni that places students for clinical practise for different qualifications in Municipal clinics.

The attention was drawn to the fact that the South African Nursing Council (SANC) has revised qualifications and training programmes that resulted to some qualifications discontinued and, with the re-introduction of others in a more comprehensive and upgraded form. This warrants Colleges/Universities to re-apply for accreditation for these new qualifications, and then signing of a Memorandum of Agreement.

With the Committee being in support of this great initiative,

**COMMITTEE RECOMMENDS:**

That authority be granted for the Head: Health to enter into a Memorandum of Understanding with Chatsmed Candlelight Nursing School FET for the placement of batches of newly designated cadres of students in healthcare facilities, as per the South

African Nursing Council accreditation requirements for courses projected to commence in January 2024.

**Financial Implications:**

None.

**DEFERRED, to a Special Meeting.**

- 1.3 Request for Approval for the Health Unit to Enter into a Memorandum of Understanding with St. Mary's Hospital Nursing College FET for Clinical Student Placement (6/1):  
(Page 64: Community Services Committee - Agenda 2023-05-22)

This relates to the same arrangement where the Municipal Clinics accept students for clinical training, exposure and acquisition of skills as a requirement by different Health Governing Councils. This then requires the signing of the Memorandum of Understanding for this relationship to be managed within a structured framework. The institution involved in this respect is the St Mary's Hospital Nursing College FET.

With the Committee still being greatly appreciative of this opportunity in view of significant contribution being made in the health sector,

**COMMITTEE RECOMMENDS:**

That authority be granted for the Head: Health to enter into a Memorandum of Understanding with the St Mary's Hospital Nursing College FET for the placement of batches of newly designated cadres of students in healthcare facilities, as per the South African Nursing Council accreditation requirements for courses projected to commence in January 2024.

**Financial Implications:**

None.

**DEFERRED, to a Special Meeting.**

- 1.4 Noting of Intention to Utilise Section 116(3) of the Local Government: Municipal Finance Management Act 2003 to Amend Existing Lease in Montclair Mall to Continue Accommodating the Montlands Library (17/2/2/1/2):  
(Page 77: Community Services Committee - Supplementary Agenda 2023-05-22)

The Libraries and Heritage Department currently leases premises in Shop No. 29 Montclair Mall to accommodate the Montlands Library. The existing lease in this regard, and which was secured using the Supply Chain Management process, expires 30 June 2023. The Department requests to continue leasing the premises for another 3 years to achieve business continuity since relocating the library will disrupt the provision of the library services in this area. This would also lead to additional costs not budgeted for in relation to setting up new Library facility with necessary amenities in a different area.

Cognisance is taken of the general principle for the Municipal Units to consider utilising Municipal owned buildings and/or land to accommodate premises required for different Municipal operations.

Accordingly, the Parks, Recreation and Culture Unit is currently working with the Real Estate Unit to conduct assessments for proposed suitable Municipal-owned land to

build new library. Pending the finalisation of this process, a need exists to amend the contract for the Montlands library to continue operating in Shop No. 29 Montclair Mall, 169 Wood Road, Montclair.

With the Committee noting the reasons for the Montlands library to continue operating in Shop No. 29 Montclair Mall, as well as the processes already commenced to acquire Municipal-owned building to build new library thereby achieving cost-effectiveness in the long run,

**COMMITTEE RECOMMENDS:**

- 1.4.1 That Council notes the following reasons for the intention to utilise Section 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, to amend lease in Shop No. 29 Montclair Mall, 169 Wood Road, for another 3 years, with effect from 01 July 2023 to 30 June 2026, thus continuing operating the Montlands library:
  - 1.4.1.1 The Montlands library has been located in the current premises for more than fifteen (15) years, and this location enables the library to be accessible to all patrons of the Montclair community. The current premises meet the requirements for fair and equitable rent, space requirements and floor loading capacity for public libraries. The premises adequately accommodates the library, District Support Office, Central Book Mending Workroom, Cyberzone and the Metro Connect Servers which supports the business.
  - 1.4.1.2 Relocating to another premises in a different area will cause gross disruptions of service delivery, and with costs implications not budgeted for, with a distortion of business operations and service delivery in the process.
  - 1.4.1.3 Any relocation will result in the decommissioning and re-installation of IT networks and equipment, dry wall partitioning, equipment and fittings, the cost of which may be fruitless and wasteful expenditure considering that building a new library on the Council property is recommended.
  - 1.4.1.4 The location is not isolated with any security risk and is well maintained within competitive rental rates.
  - 1.4.1.5 Identifying other suitable rental premises for Montlands Library would pose several challenges due to the nature of the collection and no budget to build a new library. In addition to this, the library has a strong reading community.
- 1.4.2 That the Committee notes that the intention to amend the lease referred to in .1 above was advertised on 10 March and closed 14 April 2023, with no comments received objecting to the lease amendment.

**Financial Implications:**

The gross monthly rental is currently R92 971.38 (R202m<sup>2</sup>) for the office space. The rental is exclusive of VAT, rates and taxes, operating costs and utilities. The current rental will also be applicable for the first year and thereafter escalate by 6% for the ensuing two (2) years. The rental for the current period is considered fair, reasonable and market related.

Vote Number: 15067.15200.12120.0000.MRC01.W064  
FC Number: 33/746

**ADOPTED.**



2. REPORT OF THE ECONOMIC DEVELOPMENT AND PLANNING  
COMMITTEE: MEETING HELD: 2023- 05-24

(Page R5)

2.1 Request for Authority to Enter into and Sign a Memorandum of Understanding  
Between eThekweni Municipality and Warwick Zero Waste Project (24/8/4):  
(Page 1 : Economic Development and Planning Committee - Agenda 2023-05-24)

Authority is sought for the Business Support, Markets, Tourism and Agribusiness; Parks, Recreation and Culture Unit; as well as the Cleansing and Solid Waste Unit, to officially partner with the Warwick Zero Waste Project, led by the Durban University of Technology (DUT); Urban Future Centre; Ground Work; and Asiye eTafuleni. Additionally, authority is sought for the City Manager to enter into a Memorandum of Understanding with the aforementioned institutions. The Warwick Zero Waste project started in early 2021 for the purpose of creating a zero-waste to landfill case study, focusing on the informal markets in Durban's Warwick Junction. The ultimate goal is to create an "easy to replicate, zero waste to landfill case study for large informal markets commonly found in Africa".

The proposed partnership and the involvement of the Municipal Units identified is informed by establishing that sending food waste to landfill is the least preferred treatment option. The most preferred options are either to prevent waste or divert waste to feed animals or people. The Units identified incur costs ranging from i) food waste removal from the markets; ii) garden waste removal; and iii) waste transportation and landfilling. Therefore, the Zero Waste Project is all about diversion of food and garden waste from landfill into composting production thereby saving costs. The intention then is to formalise the partnership model amongst the institutions identified.

The impact that the City can make by entering into this partnership include:

- (i) Financial Impact in terms of savings on waste disposal for Early Morning Market (EMM) and Botanic Gardens, as well as savings on compost purchase by the Parks, Recreation and Culture Unit, including savings on landfill and airspace costs for the Cleansing and Solid Waste Unit.
- (ii) Employment Impact in terms of creation of new green employment opportunities for the City.
- (iii) Climate and Environmental Impact in terms of GHG emission reductions from compost production (especially methane) and reduced transport as well as production of compost to replenish the soil.
- (iv) Impact on Traders in terms of re-investment of savings into EMM infrastructure toward improved working conditions, increased education about the impact of food waste.
- (v) Institutionalisation Impact in terms of successful transversal partnership model and creation of a strong circular economy model for replication.
- (vi) Educational Impact in terms of creation of training opportunities for students and creation of broad awareness and education around food waste.

Thereafter, the DA, IFP and the ACDP abstained on this matter at the Support Committee level, and with the other Parties present being in support.

The Executive Committee considered the matter and advised that Parties requesting to have site of the final Memorandum of Understanding could make the necessary arrange but that the Committee needs to grant authority to the administration to continue processing this document. On the issue of the other companies being regarded to be operating for profit, it was clarified that all companies to partner with the City and listed herein occupy a status of being Non-Profit Organisations.

#### COMMITTEE RECOMMENDS:

- 2.1.1 That Council approves a partnership model involving the Business Support, Markets, Tourism and Agribusiness; Parks, Recreation and Culture Unit; and the Cleansing and Solid Waste Units to officially partner with the Warwick Zero Waste Project led by Durban University of Technology; Urban Future Centre; Ground Work; and Asiye eTafuleni, for the purpose of creating a zero-waste to landfill case study, focusing on the informal markets in Durban's Warwick Junction, and with the ultimate goal of creating an "easy to replicate, zero waste to landfill case study for large informal markets commonly found in Africa.
- 2.1.2 That, subject to the approval of .1 above, authority be granted for the City Manager to enter into and sign a 3-year Memorandum of Understanding with the Durban University of Technology; Urban Futures Centre; Ground Work; and Asiye eTafuleni to implement the zero-waste project.

#### **DEFERRED, to a Special Meeting.**

- 2.2 Authority to Enter Into Funding Agreement with Special Rating Area Management Companies (7/2/1):  
(Page 5 : Economic Development and Planning Committee - Agenda 2023-05-24)

Authority is sought for the City Manager to enter into new three-year funding agreements with the Special Rating Area Management Companies for the Special Rating Areas (SRAs) established by the eThekweni Municipal Council in terms of Section 22 of the Local Government: Municipal Property Rates Act; the eThekweni Rates Policy; and the eThekweni SRA Policy.

Urban Precinct Management is an important strategy of the eThekweni Municipality's Integrated Development Plan to enable the Municipality to partner with property owners, businesses and the broader community to improve and maintain demarcated SRAs in which property owners pay an additional rate for this purpose. The aim is to create well-maintained, safe and attractive public spaces to support the social and economic functions of these precincts and thereby to retain and attract investment, to increase property values and sustain the rates income of the Municipality in order in order to build healthy and socially integrated communities.

In order to give effect to the SRA, additional rates are collected as per the statutory requirement. Thereafter, the equivalent value of the collected additional rates is then paid over to the SRA Management Companies. It is therefore necessary to enter into a funding agreement for the transfer, administration and compliance management related to these funds. The Municipality then intends entering into a 3-year funding agreement, with effect from July 2023 to June 2026, with the following SRAs:

- (i) Umhlanga Promenade UIP
- (ii) Umhlanga Village UIP
- (iii) Florida Road UIP
- (iv) South Beach UIP (Inner City)
- (v) Central Business District UIP (Inner City)
- (vi) Northeast Business UIP (Inner City)
- (vii) Glenwood UIP (Commercial Node)
- (viii) Perth West UIP (Westville)
- (ix) Maytime UIP (Kloof)
- (x) Burlington Height UIP
- (xi) Pigeon Valley UIP

With the Committee being in support of initiatives promoting economic growth,

**COMMITTEE RECOMMENDS:**

- 2.2.1 That authority be granted for the City Manager to enter into new 3-year Funding Agreements between the eThekweni Municipality and the Special Rating Areas Companies listed in .2 below, and with the agreement effective July 2023 to June 2026, for the purpose of transferring collected additional rates relating to Special Rating Areas in terms of Section 67 of the Local Government: Municipal Finance Management Act, No. 56 of 2003, and with the SRAs aimed at creating well-maintained; safe; and attractive public spaces to support the social and economic functions of the precincts, thereby attracting and retaining investment to increase property values and sustain the rates income of the Municipality, in order to build healthy and socially integrated communities, and with the Funding Agreement to then manage the transfer, administration and compliance management related to these funds.

- 2.2.2 That subject to .1 above, Council notes the Special Rating Areas Companies to partner with the eThekweni Municipality are as follows:

- (i) Umhlanga Promenade UIP
- (ii) Umhlanga Village UIP
- (iii) Florida Road UIP
- (iv) South Beach UIP (Inner City)
- (v) Central Business District UIP (Inner City)
- (vi) Northeast Business UIP (Inner City)
- (vii) Glenwood UIP (Commercial Node)
- (viii) Perth West UIP (Westville)
- (ix) Maytime UIP (Kloof)
- (x) Burlington Height UIP
- (xi) Pigeon Valley UIP

- 2.2.3 That the Head: Economic Development oversee the monitoring and reporting requirements as per the provision of Section 67 of the Local Government: Municipal Finance Management Act No. 57 of 2003, and as per the provision in terms of the Funding Agreement.

**DEFERRED, to a Special Meeting.**

- 2.3 Application in Terms of Section 26 of the eThekweni Municipality: Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) for the

Amendment of the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme:  
Section 7: Development Facilitation Table: Limited Commercial 2 Zone (21/7/4):  
(Page 8 : Economic Development and Planning Committee - Agenda 2023-05-24)

Authority is sought for the amendment of the eThekweni Municipal Land Use Scheme: Outer west Sub-Scheme: Section 7: Development Facilitation Table: Limited Commercial 2 Zone by removing the Asterix (\*) from “flat” in the Primary Land Use Column of the Limited Commercial Zone and amending additional Control No.5 in the limited Commercial 2 Zone as reflected in the report by City Manager dated 2023-05-22.

The proposal is broadly in line with the eThekweni Municipality’s objective to promote spatial efficiency by optimising development in areas of greatest opportunity and encourages efficient use of infrastructure and facilities. From a land use compatibility perspective, the subject site is deemed to be currently under-developed, and the proposed use will complement, improve, and provide additional uses within the Kloof suburb.

Given the explanation above, it was accordingly

COMMITTEE RECOMMENDS:

- 2.3.1 That in terms of Section 26(1) (b) of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) the application for the amendment of the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme: Section 7: Development Facilitation Table: Limited Commercial 2 Zone by removing the Asterix (\*) from "flat" in the Primary Land Use Column of the Limited Commercial Zone and amending Additional Control No. 5 in the Limited Commercial 2 Zone and replacing with the following wording:

*“where a building or buildings is used simultaneously for residential and commercial purposes each floor shall be set aside and used for one or the other purpose but not for both uses, provided that the residential use may be permitted at ground floor level where the design of a building is such that the residential use is not contiguous with the street”*

be **APPROVED** for the following reasons:

- 2.3.1.1 The proposed scheme amendment is to enable the opportunity to facilitate appropriate mixed-use developments within the Limited Commercial 2 zone and to introduce flexibility related to the development of residential flats on sites zoned Limited Commercial 2.
- 2.3.1.2 From a land use compatibility perspective, the subject site is deemed currently under-developed, and the proposed use will complement, improve, and provide additional uses within the Kloof suburb.
- 2.3.1.3 All of the necessary commenting departments raised no objections to the proposal and found the application to be acceptable in terms of meeting all the necessary requirements.

2.3.1.4 The proposal is broadly in line with the eThekweni Municipality’s objective to promote spatial efficiency by optimizing development in areas of greatest opportunity and encourages efficient use of infrastructure and facilities.

2.3.2 The **eThekweni Municipality Land Use Scheme: Outer West Sub-Scheme**: Section 7: Development Facilitation Table: Limited Commercial 2 will be amended as follows:

2.3.2.1 Removing the Asterix (\*) from "flat" in the Primary Land Use Column of the Limited Commercial Zone;

2.3.2.2 Amending Additional Control No. 5 from the Limited Commercial 2 zone and replacing with the following wording:

*“where a building or buildings is used simultaneously for residential and commercial purposes each floor shall be set aside and used for one or the other purpose but not for both uses, provided that the residential use may be permitted at ground floor level where the design of a building is such that the residential use is not contiguous with the street”*

The **eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme** will be amended to reflect the following amended development facilitation table:

ZONE: LIMITED COMMERCIAL 2				
<b>SCHEME INTENTION:</b> To provide, preserve, use land or buildings for medium impact commercial purposes. Accommodation of commercial or business activities within a residential area where the commercial activity provides a service to the residential community and is not detrimental to the residential amenity of the area. <b>MAP COLOUR REFERENCE:</b> Light blue with hatched black				
PRIMARY	SPECIAL CONSENT	PRECLUDED		
<ul style="list-style-type: none"> <li>Arts and Crafts Workshop</li> <li>Car Wash</li> <li>Conservation area</li> <li>Display Area</li> <li>Flat</li> <li>Flea Market</li> <li>Fuelling and Service Station</li> <li>Government/Municipal</li> <li>Laundry</li> <li>Motor Display Area</li> <li>Museum</li> <li>Office</li> <li>Parkade</li> <li>Pet Grooming Parlour</li> <li>Private Open Space</li> <li>Restaurant / Fast Food Outlet</li> <li>Shop</li> </ul>	<ul style="list-style-type: none"> <li>Action Sports bar</li> <li>Adult Premises</li> <li>Agricultural Land</li> <li>Betting Depot</li> <li>telecommunications infrastructure</li> <li>Builder's Yard</li> <li>Convention Centre</li> <li>Crèche</li> <li>Educational Establishment</li> <li>Funeral Parlour</li> <li>Garden Nursery</li> <li>Health &amp; Beauty Clinic</li> <li>Health Studio</li> <li>Motor Workshop</li> <li>Night Club</li> <li>Office – Medical</li> <li>Place of Public Entertainment</li> <li>Place of Public Worship</li> <li>Retirement Centre</li> <li>Student Residence</li> <li>Special Building</li> <li>Warehouse</li> </ul>	<ul style="list-style-type: none"> <li>Agricultural Activity</li> <li>Airport</li> <li>Animal facility</li> <li>Boarding House</li> <li>Chalet</li> <li>Development</li> <li>Container Depot</li> <li>Correctional Facility</li> <li>Cemetery/crematorium</li> <li>Direct Access</li> <li>Service Centre</li> <li>Dwelling House</li> <li>Escort Agency</li> </ul>	<ul style="list-style-type: none"> <li>Hotel</li> <li>Industry – Extractive</li> <li>Industry – General</li> <li>Industry – Light</li> <li>Industry – Noxious</li> <li>Institution</li> <li>Landfill</li> <li>Mobile Home Park and Camping Ground</li> <li>Mortuary</li> <li>Motor Garage</li> <li>Motor Vehicle Test Centre</li> <li>Multiple Unit Development</li> <li>Nature Reserve</li> </ul>	<ul style="list-style-type: none"> <li>Recycling Centre</li> <li>Reform School</li> <li>Refuse Disposal</li> <li>Riding Stables</li> <li>Scrap Yard</li> <li>Transport Depot</li> <li>Truck Stop</li> <li>Utilities Facility</li> <li>Veterinary Clinic</li> <li>Zoological Garden</li> </ul>
ADDITIONAL CONTROLS				
1. *Excluding Hotel 2. A builder's yard may be permitted by Special Consent of the Municipality 3. Accommodation for motor vehicles to be provided on the erf as per Section 8 4. Subject to the provisions of a sewage disposal system to the satisfaction of the Municipality.				

ZONE: LIMITED COMMERCIAL 2						
5. Where a building or buildings is used simultaneously for residential and commercial purposes each floor shall be set aside and used for one or the other purpose but not for both uses, provided that the residential use may be permitted at ground floor level where the design of a building is such that the residential use is not contiguous with the street.						
DEVELOPMENT PARAMETERS						
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM SUBDIVISION SIZE	HEIGHT IN STOREY S	COVERAGE	FLOOR AREA RATIO
BUILDING LINE: FRONT	BUILDING LINE: SIDE AND REAR					
9 m	3 m	N/A	Exclusively commercial- 450 m <sup>2</sup> /Commercial and Residential-1800 m <sup>2</sup>	3	50 %	0.50

### **DEFERRED, to a Special Meeting.**

- 2.4 Request for Authority to Into a Memorandum of Agreement Between the eThekweni Municipality and the South African National Roads Agency Soc Limited (25/4/3/1):  
(Page 16 : Economic Development and Planning Committee - Agenda 2023-05-24)

The South African National Roads Agency SOC Limited, referred to as SANRAL, is currently undertaking major infrastructure and investment to upgrade of the National Route (N3) from Durban to Johannesburg, and various sections in eThekweni Municipality and adjoining Municipalities. The upgrade referred to requires multiple land acquisitions and expropriations, as well as the need to make the appropriate land development applications as per the relevant legislative requirements.

This is a Presidential Project and much needed, with the Municipality to benefit from the improved infrastructure.

With the amount of applications for subdivision, consolidations and expropriations required to achieve the necessary road widening and the impact to the Municipality, it has been established that the most efficient and effective route of engagement, and which SANRAL has undertaken with other Municipalities along the N3 Corridor Upgrade, is to enter into a Memorandum of Agreement (MOA) with the eThekweni Municipality. The proposed MOA will encapsulate all the legal, operational and detail procedures required to fastrack the application process for SANRAL within the ambit of the planning legislations.

The MOA will set a clear legal framework for the roles and responsibilities of reach party, including operational, financial and legal implications. It should be noted that there are no financial implications envisaged for the eThekweni Municipality as all costs will be borne by SANRAL, but the long-term handing over of assets and maintenance will be covered in the MOA.

In a nutshell, the MOA will cover the following aspects:

- (i) Handover of Access Roads and Assets Agreement;
- (ii) Shared Responsibility Agreement; and
- (iii) Shortened SPLUMA Agreement

In view of the foregoing,

**COMMITTEE RECOMMENDS:**

- 2.4.1 That authority be granted for the City Manager to enter into a Memorandum of Agreement (MOA) with the South African National Roads Agency SOC Limited (hereafter referred to as SANRAL), for the purpose of outlining legal, operational and detailed procedures required to implement the Presidential Project to upgrade the National Route (N3) from Durban to Johannesburg, and various sections in eThekweni Municipality and adjoining Municipalities.
- 2.4.2 That the Executive Committee notes that the upgrade referred to in .1 above requires multiple land acquisitions and expropriations thus the requirement to enter into the MOA to fast-track the application processes for SANRAL within the ambit of the planning legislations, and it being noted that the MOA will set clear roles and responsibilities impacting operational, financial and legal implications, and to give effect to the aforementioned, the MOA will cover the aspects relating to (i) Handover of Access Roads and Assets Management; (ii) Shared Responsibility Agreement; and (iii) Shortened SPLUMA Agreement.
- 2.4.3 That the Executive Committee notes that there are no financial implications envisaged for the Municipality with regard to the N3 Corridor Route Upgrade as all costs will be borne by SANRAL, but that the long-term handing over of assets and maintenance will be covered in the MOA, it being recorded that should any financial implications emerge for the Municipality during negotiation of the terms and conditions of the MOA, a new request will be submitted to the Economic Development and Planning Committee for discussion in preparation for final approval by Council in that regard.
- 2.4.4 That progress report on the implementation of the MOA be submitted to the Municipal Council for noting and record purposes.

**DEFERRED, to a Special Meeting.**

- 2.5 Request for Authority to Renew a Memorandum of Agreement Between eThekweni Municipality and Chemicals Industry Cluster for the Implementation of the Chemical Industry Development Programme (20/1/6/3):  
(Page 78 : Economic Development and Planning Committee - Agenda 2023-05-24)

(Page 78)

Chemical manufacturing is a key driver of transformation and provides meaningful employment for marginalized communities. It is crucial to the development of technological capabilities and jobs that are scalable and attractive. High-paying chemicals manufacturing has strong economic multipliers that can elevate a City to become a high-employment area. The Economic Development Unit's strong partnership with the Durban Chemicals Cluster helps create a platform for stakeholders to facilitate engagement and assist business overcoming their challenges, identifying new opportunities for investment, economic growth and job creation that will drive economic output, productivity, poverty reduction, social well-being, and prosperity. The Economic Development Unit aims to create a business environment that is supportive of investment in the chemicals sector through which companies can expand their businesses and climb up the economic ladder.

The Durban Chemicals Cluster Programme has been specifically devised to stimulate economic growth in the chemical sector through investment and growth, operational excellence as well as skills development and transformation activities. Chemicals manufacturing is a significant contributor to the City's revenue, with high value business such as SAPREF; Engen; Mondi; SAB; and AECI Chemicals. In just one (01)

month, manufacturing contributes 64% or R128.2 Million in electricity; 44% or R51.7 Million in water; and 12% or R39.1 Million in rates revenue.

However, cognisance is taken that the Chemicals sector has recently experienced major disinvestment and downscaling of operations, with revenue losses from SAPREF and Engen being significant. The support of eThekweni Municipality is critical to the continued growth and sustainability of the chemicals manufacturing sector. In the KwaZulu-Natal region, the sector sustains approximately thirty thousand (30 000) direct jobs; hosts and supports a great number of indirect jobs through the strong multipliers associated with the sector.

Recognising the strategic importance of and significant contribution that the chemicals manufacturing industry plays in the local economy, the eThekweni Municipality has been a longstanding supporter of the sector through its partnership with the Durban Chemicals Cluster (DCC) since 2008. The DCC is a registered Non-Profit Company that has consistently received clean and unqualified audits, and is also compliant with all major relevant legislative and governance requirements since its inception. The DCC has seventy-four (74) member firms and 34% of those are black-owned SMEs. The DCC is employing nine thousand eight hundred (9 800).

In term of the 31 August 2020 Council approval, an amount of R6 180 789.00 (Six Million One Hundred and Eighty Thousand Seven Hundred and Eighty-Nine Rand) for the support of the Chemicals Industry Development Programme and with the MOA approved in this regard expiring 30 June 2023. Authority is sought to renew the agreement, and with the programme to be now funded in the amount of 9.57 Million for a 3-year period and to be disbursed in tranches. The DCC intends delivery more impact; growth; and competitiveness for the critical manufacturing value chain. Key programmes in the Business Plan include:

- (i) Business Accelerator: This programme beams success after having supported fifty-five (55) small businesses, while supporting member firms to achieve B-BBEE compliance, and in this regard, three (03) small businesses were awarded cash prizes and receive mentorship.
- (ii) Youth Development Programme: This is aimed specifically at developing youth within the sector, as well as potential new entrants into the industry
- (iii) Development of Black-owned suppliers
- (iv) Enterprise Development Support, with export-oriented programmes

During discussion at the Support Committee level, the DA and the IFP abstained on this matter., it being noted that the other Parties present were in support.

It being highlighted at the Executive Committee level that SAPREF and Engine were currently not active and then enquiry on the reasons for being including in funding allocation, it was confirmed that this was provision at this stage until their businesses are resuscitated. Also, that endeavours are currently being made to support these companies through the Durban Invest Unit to ensure they recover their businesses accordingly. Also, attention being drawn on the engagements held at the National level with regard to investment pertinent to these companies.

Given the explanation,



COMMITTEE RECOMMENDS:

- 2.5.1 Given the significance of the chemicals manufacturing industry in the economy of eThekweni, Council approves the renewal of the Memorandum of Agreement (MOA) between the eThekweni Municipality and the Durban Chemicals Cluster (DCC) Non-Profit Company, with effect from July 2023 to June 2026, and also approves the funding contribution by the eThekweni Municipality in the amount of R9.7 Million for the DCC to undertake the Durban Chemicals Industry Development Programme, it being recorded that the chemicals manufacturing is a key driver of transformation and provides meaningful employment for marginalized communities.
- 2.5.2 That subject to approval of .1 above, authority be granted for the City Manager to conclude new Memorandum of Agreement to give effect to the above for the next three-year period, starting 01 July 2023 to 30 June 2026.
- 2.5.3 That subject to the approval of .1 and .2 above, authority be granted for the Head: Economic Development to, in terms of Section 67 of the Local Government: Municipal Finance Management Act No. 56 of 2003, and the terms and conditions of the MOA, disburse funds to the Durban Chemicals Cluster in the amount of R2 978 385 (Two Million Nine Hundred and Seventy Eight Thousand Three Hundred and Eighty Five Rand), excluding VAT, for the 2023/2024 financial year; R3 186 872 (Three Million One Hundred and Eighty Six Thousand Eight Hundred and Seventy Two Rand), excluding VAT for the 2024/2025 financial year; and R3 409 945 (Three Million Four Hundred and Nine Thousand Nine Hundred and Forty Five Rand), excluding VAT, for the 2025/2026 financial year.
- 2.5.4 That the Head: Economic Development present progress reports on the implementation of the programme and compliance with the terms and condition of the MOA on an annual basis.

VOTE NUMBER	AMOUNT	FINANCIAL YEAR
26102.25445.240.12120.0000.38874.0010	R2 978 385 (No VAT)	2023/24
26102.25445.240.12120.0000.38874.0010	R3 186 872 (No VAT)	2024/25
26102.25445.240.12120.0000.38874.0010	R3 409 945 (No VAT)	2025/26

FC No. 2023/18/61

**DEFERRED, to a Special Meeting.**

- 2.6 Scheme Amendment in Terms of the eThekweni Municipality: Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) to Introduce a New Zone Into the eThekweni Municipal Land Use Scheme: Central Sub-Scheme: Section 7: Development Facilitation Table Special Zone: Beachwood Coastal Estate (21/7/1):  
(Page 170 : Economic Development and Planning Committee - Agenda 2023-05-24)

Authority is sought for the approval for Part A of a Combined Land Development Application submitted in terms of Section 26 of the eThekweni Municipality Planning and Land Use Management Second Amendment By-law, 2021 (Notice 95 of 2021) for several Categories of Land Development Application: Part A-J as outlined to the report by City Manager dated 2023-04-24.

A combined application has been submitted by SiVEST SA (Pty) LTD, on behalf of the registered owner Beachwood Investment Pty LTD (2017/25/1072/07) in respect of the Remainder of 3485 Durban North, located at 9 Beachwood Place Durban North, for a scheme amendment in terms of Section 26 (Category 1 Application) of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021).

The proposal is broadly in line with the eThekweni Municipality's objective to promote spatial efficiency by optimising development in areas of greatest opportunity and encourages efficient use of infrastructure and facilities.

In light of the planning evaluation, it is considered that the proposal amendment to introduce a new zone into the eThekweni Municipality Land Use Scheme: Central Sub-Scheme, Section 7: Development Facilitation Table to be known as "Special Zone: Beachwood Coastal Estate", is appropriate and meets the development principles as set out in the current planning legislation, promote efficient and sustainable economic development and use of infrastructure and is recommended for approval.

To enforce site-specific controls, a Special Zone is the only meaningful mechanism available, therefore, to ensure that the property is developed in accordance with a set of stringent and prescriptive controls, given its sensitivity and peculiarities of a special zone is necessitated.

The proposed development will intensify the use of the site and improve the value by virtue of the investment and in turn increase the rates that will accrue to the Municipality.

Having noted the foregoing, it was subsequently,

#### COMMITTEE RECOMMENDS:

- 2.6.1 In terms of Section 26 of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) the proposed introduction of a new land use zone into the eThekweni Municipality Land Use Scheme: Central Sub-Scheme: Section 7 Development Facilitation Table, to be known as "**Special Zone: Beachwood Coastal Estate**" be approved for the following reasons:
  - 2.6.1.1 Given the very prescriptive and specific development controls largely shaped by the Environmental Authorisation, there is no land use zone with in the current eThekweni Municipal Land Use Scheme: Central Sub-Scheme that can effectively accommodate the intended development.
  - 2.6.1.2 The new land use zone and associated Development Controls will ensure that the property is developed in accordance with a set of stringent and prescriptive controls, given its sensitivity and peculiarities, which can only be achieved by way of a new zone.

The eThekweni Municipality Land Use Scheme: Central Sub-Scheme: Section 7 Development Facilitation Table will be amended to include the following table:

SPECIAL ZONE: BEACHWOOD COASTAL ESTATE		
<p><b>1. SCHEME INTENTION:</b></p> <ul style="list-style-type: none"> <li>a) To conserve and manage natural areas of indigenous flora and fauna and wetlands, water, and the seashore for the ecosystem services that these areas provide and the biodiversity which they support.</li> <li>b) To provide for various residential options, short-term accommodation, and a mix of uses that permits recreation, entertainment, dining, tourism activities, and commercial activities such as a Chapel for weddings and a functions room that can be used for social gatherings, wedding receptions, displays, conventions and the like. A clinic, medical offices, and recuperation suites for elective surgical or physiological procedures will form part of a holistic, general health and welfare facility.</li> <li>c) Provide for a range of residential housing typologies at varying degrees of densities from low to high, in harmony with the natural attributes of the site to create a residential living area of exceptional quality and security with both Sectional Title or Freehold ownership being available.</li> <li>d) Develop in synergy with and complimentary to adjoining residential areas.</li> <li>e) Maintain unrestricted public access inclusive of public parking and designated pedestrian access to the beach.</li> <li>f) Maintain unrestricted vehicular access for emergency or maintenance vehicles to the beach.</li> <li>g) Establish a Design Review Panel to review and approve all site development plan proposals, landscaping plans, and building plans before the submission of such plans to the Municipality for consideration.</li> <li>h) Maximize, where applicable, the use of “green building” technologies in all facets of development.</li> <li>i) Introduce a comprehensive landscaping protocol utilizing only appropriate indigenous vegetation across the entire development.</li> <li>j) The development form of the entire Beachwood Estate will consist of 4 separate yet inter-related precincts to be developed substantially in accordance with the approved overall site development framework plan no: 19119-SK-14-1000 dated 28/01/2022 or subsequently approved versions thereof.</li> <li>k) All development will be approved by the Design Review Panel, Head: Development Planning, Environmental Planning and Management, and Deputy Head - Environmental Planning and Climate Protection (or their assigned) before any construction commences.</li> <li>l) All of the above is to occur within designated precincts as depicted on layout plan no 19119-SK-14-1000 dated 28/01/2022 or subsequently approved versions thereof.</li> </ul>		
<b>LAND USE CONTROL – DEVELOPMENT FRAMEWORK OF ENTIRE SITE PLAN NO.:19119-SK-14-1000</b>		
PRIMARY	SPECIAL CONSENT	PRECLUDED
<ul style="list-style-type: none"> <li>• Action Sports Bar</li> <li>• Beach Amenity Facility</li> <li>• Conference Facility</li> <li>• Environmental Conservation Reserve Area</li> <li>• Creche</li> <li>• Dwelling House</li> <li>• Flat</li> <li>• Health &amp; Beauty Clinic</li> <li>• Health Studio</li> <li>• Hotel</li> <li>• Medical Office – Limited to elective surgery and Recuperation Suites</li> <li>• Multiple Unit Development</li> <li>• Nature Based Tourism</li> <li>• Nature Reserve</li> <li>• Office – Medical</li> <li>• Offices</li> <li>• Place of Public Entertainment</li> <li>• Place of Public Worship</li> <li>• Public open space</li> <li>• Private Open Space</li> <li>• Restaurant/Fast Food Outlet</li> <li>• Shop</li> <li>• Utilities Facility</li> <li>• Vet clinic</li> </ul>	<ul style="list-style-type: none"> <li>• Garden Nursery</li> <li>• Government/Municipal</li> <li>• Special Building</li> <li>• Zoological Garden</li> <li>• *Airport–limited to Helipad</li> <li>• Special Building</li> <li>• Base Telecommunications Transmission Station</li> <li>• Retirement centre</li> <li>• Zoological gardens</li> </ul>	<ul style="list-style-type: none"> <li>• All uses that are not listed under primary or special consent.</li> </ul>
<b>ADDITIONAL CONTROLS</b>		
<p><b>1. GENERAL</b></p> <ul style="list-style-type: none"> <li>a. The purpose of this zone will be to accommodate a wide range of conservation, recreational, social, entertainment, tourist, residential, and limited commercial activities, in such a way that the uses contribute towards the creation of a dynamic, harmonious, and environmentally sensitive development.</li> </ul>		

**SPECIAL ZONE: BEACHWOOD COASTAL ESTATE**

- b. In order to preserve the integrity of the environment and contribute to establishing a development that achieves the spirit and intention behind the establishment of this zone, decisions are to align with the purpose of the zone.

**2. DEVELOPMENT FRAMEWORK AND LAYOUT PLAN**

- a. This zone is based on an overall Development Framework Plan which may be amended from time to time (within the parameters of this zone).
- b. The Development Framework Plan provides the overall structure for the site and includes only the main framework routes, open spaces, subdivisions, and environmental and service/infrastructure-related requirements. The position of buildings on the Development Framework Plan is indicative and not prescriptive.
- c. The Development Framework Plan serves to provide the overarching structure within which individual precinct plans, based on the vision and objectives for Beachwood Coastal Estate will be prepared and submitted for consideration.
- d. Detailed site controls are to be included in a Layout Plan, on a site-by-site and/or general basis. This will include the environmental attributes and accompanying set backlines.
- e. The respective land uses indicated on the Layout Plan shall set out the respective designations and site-specific development controls.
- f. The applicable Scheme provisions in so far as general and land use definitions (except where otherwise indicated) shall apply. Specifically, in so far as height is concerned, each property will be governed by a site-specific height control as set out in the Layout Plan.
- g. Provided that the approved footprint as set out in the applicable Environmental Authorisations and associated development controls are not exceeded and further, that any other authorisations as determined by The Head: Development Planning as being required are in order, The Development Framework Plan and Layout Plan may be amended through an application for Special Consent. Public notice may be waived at the discretion of The Head: Development Planning, Environment and Management Unit.

**3. MASTER PROPERTY OWNERS' ASSOCIATION (MPOA)**

- a. A MPOA shall be formed in respect of the entire development area to control and manage matters of common interest to all portions of the development and co-ordinate the affairs of any Local Property Owners Association (LPOA).
- b. All owners, their guests, lessees, and any other member of the public utilizing the estate accommodation and facilities must comply with the rules and regulations of the MPOA.
- c. No Portion, Erf, or Sectional Title unit shall be developed or transferred without the consent of the MPOA, which consent may not be withheld if the new buyer agrees to become a member of the relevant Association and the existing owner has complied with all their obligations to the MPOA.

**4. LOCAL PROPERTY ASSOCIATION (LPOA)**

- a. A number of LPOAs shall be formed in respect of each precinct and sub-development areas to control and manage matters of common interest to all portions of the development falling within each precinct.
- b. Each LPOA must become and remain a member of the MPOA and ascribe to and abide by all rules and regulations of the MPOA.
- c. All owners, their guests, lessees, and any other member of the public utilising the estate accommodation and facilities must comply with the rules and regulations of the relevant LPOA.
- d. No Portion/sectional title unit shall be transferred without the consent of the relevant LPOA, which consent may not be withheld if the new buyer agrees to become a member of the relevant LPOA and the existing owner has complied with all their obligations to the LPOA.
- e. The inter-relationships of the LPOAs and the MPOA shall be established in terms of a legally binding agreement between them.

**5. DESIGN REVIEW PANEL**

- a. The MPOA shall establish and appoint a Design Review Panel to manage and oversee the design and construction of the development. The Municipality shall be entitled to include at least one representative on the Design Review Panel, should it wish to, this is however not mandatory and will not adversely impact on the functions of the Design Review Panel.
- b. All building plans will be reviewed by the Design Review Panel prior to submission to the Municipality. The Municipality shall not consider any plans not evaluated by the Design Review Panel.
- c. The Design Review Panel shall in writing, provide its comments and recommendations for all building plans which must accompany any building plan submission to the Municipality.
- d. The Municipality is responsible for deciding the outcomes of all building plans.

**6. LANDSCAPING MASTER PLAN**

- a. The MPOA shall prepare a Landscaping Master Plan and an overall indigenous planting protocol for the entire site subject to the approval of the Municipality in consultation with the Head: Environmental Planning and Climate Protection.
- b. The MPOA together with the LPOA shall ensure that the abovementioned Landscaping Master Planning principles and protocols are implemented and maintained in perpetuity on every erf, portion, or exclusive or common area in a sectional Scheme within this zone.

**7. HEIGHT**

- a. The height of each erf is governed by a maximum permissible height in meters above the highest natural ground level prior to construction.
- b. The determination of the highest ground level prior to construction shall be determined by the MPOA or LPOA.
- c. No building shall exceed the maximum height prescribed.

	SPECIAL ZONE: BEACHWOOD COASTAL ESTATE	
d.	Any amendment to the maximum prescribed height may be undertaken by way of an application for special consent to the Municipality, provided that the MPOA, LPOA, and Design Review Panel supports such application. A full Special Consent process is required in order for any increase in height to be considered.	
e.	The Municipality may authorise the erection of a building or structure to a greater height than that stipulated by Special Consent, if it considers that the proposed building or structure will be so situated in relation to any existing building or structure, topography, or established vegetation that the proposed building or structure will have an insignificant or minor impact.	
f.	Any such application shall be supported by an analysis of views in the area where the building or structure is to be sited, with a graphic impression of the proposal illustrating the potential visual impact thereof.	
g.	Attached to the development plan is a schedule for each property prescribing site-specific development controls that are to be adhered to. Any changes to the site-specific controls may be considered by way of an application for Special Consent provided that the MPOA, LPOA, and Design Review Panel supports such application.	

### **DEFERRED, to a Special Meeting.**

#### **2.7 Approval of Business Empowerment and Information Dissemination Programme for the 2023-2024 Financial Year (20/1/7/3):** (Page 187 : Economic Development and Planning Committee - Agenda 2023-05-24)

The Business Support, Markets, Tourism and Agri-Business Unit is responsible for rolling out business empowerment workshops/road shows in various Wards and tribal areas, targeting Small, Medium and Micro Enterprises (SMMEs) within the eThekweni Municipality. These Empowerment and Information Dissemination Workshops are aimed at empowering SMMEs with business development information critical for the success of their businesses, compliance matters as well as business opportunities available to sustain their businesses.

The empowerment workshops are coordinated and executed with an extensive focus on the following fundamental elements, namely, access to information and finance, attracting and accessing the targeted markets, implementation of the Preferential Procurement Policy Framework Act (PPPFA) and the Radical Economic Transformation Strategies, compliance with the Supply Chain Management and Tendering processes, Agri-Business sector matters, Bulk markets and related value chain, informal trading compliance procedures and permits, starting a new business venture and process, business licencing and liquor licencing processes, contractor development programme compliance, business support programme offerings, business license compliance procedure and cooperative development.

It was noted that twenty-eight (27) business empowerment workshops are proposed for various Wards and tribal areas. The programme is intended to reach all Wards, however, based on annual project plans and budget, a certain number of Wards are targeted per financial year. Also, a balance is created in terms of the selection criteria to consider Wards that have already received empowerment previously and Wards which have never been considered. Accordingly, based on the aforementioned explanation, the Wards to be considered during the 2023-24 financial year include Wards 99; 72; 06; 12; 13; 16; 76; 103; 30; 34; 92; 52; 04; 47; 96; 107; 82; 86; 05; 84; 60; 59; 31; 08; 35; 62. The final dates and venues will be confirmed in consultation with the respective Ward Councillors and Traditional Leaders.

To conduct the business empowerment workshops, an estimated budget provision in the amount of R1 132 000.00 (One Million One Hundred and Thirty-Two Thousand) has been made during the 2023-24 financial year. It should be noted that this is just provision since in other area community halls and other public facilities are used to host the workshops. The budget is then used in areas where erection of marquee is

required, and then the marquee comes with other requirements such as generator and ablution facilities, amongst others. Catering is also provided for the workshop participants.

The Committee supported the business empowerment, it be acknowledged that entrepreneurship should be the key focus area given shrinking employment opportunities in the labour market.

The Executive Committee shared similar sentiments with that of the Support Committee in terms of the importance of these workshops. Thereafter, certain duplication was identified and that this be followed up so that other Wards be considered as a replacement.

The Executive Committee also spoke of different business models being undertaken in various areas of the eThekweni and that empowerment should also take that into consideration. Meanwhile, it was acknowledged that all Wards require this empowerment and that the Economic Development and Planning Committee will manage the issue of identifying and including Wards accordingly, irrespective of the list of Wards included herein, but that further decision will be based on a need by need basis.

Accordingly,

#### COMMITTEE RECOMMENDS:

- 2.7.1 That in noting the significance and contribution made by small businesses in the local economic development, authority be granted for the Head: Business Support, Tourism, Markets and Agri-Business to incur expenditure in the amount of R1 132 000.00 (One Million One Hundred and Thirty-Two Thousand) to conduct the Business Empowerment and Information Dissemination Programme during the 2023-24 financial year thereby supporting Small Medium and Micro Enterprises and aspiring business people with business intelligence to grow their businesses and understand the necessary compliance requirements.
- 2.7.2 That subject to 2.7.1 above, Council notes the programme is intended to reach all Wards, however, based on annual project plans and budget, a certain number of Wards are targeted per financial year, with a balance being created though in terms of the selection criteria to consider Wards that have already received empowerment previously and Wards which have never been considered, and therefore the Wards proposed for consideration for the business empowerment during the 2023-24 financial year are 99; 96; 72; 06; 12; 13; 16; 76; 103; 30; 34; 92; 52; 04; 47; 96; 107; 82; 86; 05; 84; 60; 59; 31; 08; 35; 62, it being recorded that the Economic Development and Planning Committee leadership reserves the right to finalise the schedule of Wards to be empowered.
- 2.7.3 That the Head: Business Support, Tourism, Markets & Agri-Business in liaison with the respective Ward Councillors and Traditional Authorities, continue with the implementation of the programme, in accordance with the dates and venues to be agreed to at the consultation stage.
- 2.7.4 That the Head: Business Tourism, Markets & Agri-Business submit progress reports with regard to the implementation of the Business Empowerment Programme and Information Dissemination Programme.

**Financial Implications**

Estimated budget allocation of R1 132 000.00 ; 2023/2024 financial year

BU	ITEM.SUB	FUNDING	COSTING	PROJECT	REGION
26503	Various	12120	0000	38805-104	0010

FC No.: 2024/32/02

**DEFERRED, to a Special Meeting.**

2.8

Approval of Green Bremen West to KwaMashu Project Finance Agreements (32/2/2 & 7/4/1):

(Page 210: Economic Development and Planning Committee – Supplementary Agenda 2023-05-24)

The eThekweni Municipality has a longstanding partnership with the Free Hanseatic City of Bremen in Germany formalised 30 September 2011 to undertake projects in Inanda, Ntuzuma and KwaMashu (INK) areas. The Green Bremen West to KwaMashu project is undertaken under this partnership. The aim of the Green Bremen West to KwaMashu project is to implement measures for the development and management of urban green infrastructure to support climate change adaptation and environmental, social and economic sustainability and development.

The main focus of the project is to transform and better manage the open spaces associated with the KwaMashu and Ntuzuma streams and the Piesang River floodplain between KwaMashu Town Centre, Crossroads and Bridge City. The project interventions seek to model the development of Agroecology gardens, including the use natural filtration and low-tech irrigations systems to improve the viability of food gardening alongside our urban streams; model the use of the Geographic Information System (GIS) as a tool to facilitate improved and better integrated public space management involve multiple municipal and non-state actors; and mobilise a network of environmental education providers to improve their collective, municipality-wide impact on environmental challenges and sustainability.

The Green Bremen West to KwaMashu project is implemented through Green Corridors Non-Profit Company (NPC). Green Corridor NPS has been integral to the development and implementation of the KwaMashu Bridge City Open Spaces Development Initiative. Authority is therefore sought to enter into a further onward funding agreement with the Free Hanseatic City of Bremen (“Bremen”) to continue the project and to expand funds which have already been received from the City of Bremen in terms of a previous agreement. Further, authority is sought to also enter into an agreement with Green Corridor NPC to enable the transfer of funding in the amount of R920 730 000 in the 2022-23 financial year to continue implementing the projects reflected in the table below till 31 December 2023.

Project	Amount
Project Management and Coordination	R180 000.00
Open Space Management Gathering and Data	R 63 000.00
Environmental Education Network Manager	R234 000.00
Employing farmers to create growing beds, wetland filtration systems and groundwork for service platforms	R431 730.00
Tools	R12 000.00

It being noted that the Green Bremen West to KwaMashu project is a catalyst in providing the requirement development in the INK areas,

COMMITTEE RECOMMENDS:

- 2.8.1 That the Executive Committee notes that all of the agreed funds from Bremen have been received in terms of the Onward Funding Agreement which terminated 31 December 2022.
- 2.8.2 That authority be granted for the City Manager to enter into a further Onward Funding Agreement with the Free Hanseatic City of Bremen, commencing on the date of the signature of the agreement and terminating 2023-12-31, without the adjustment of budget or financial implication for the Municipality.
- 2.8.3 That subject to .2 above, authority be granted for the City Manager to enter into a Memorandum of Agreement (MOA) with Green Corridors NPC and, in accordance with Section 67 of the Local Government: Municipal Finance Act No. 56 of 2003, as well as the terms and conditions of the MOA, the approval the transfer to Green Corridors NPC in the amount of R920 730.00 (Nine Hundred and Twenty Thousand Seven Hundred and Thirty Rand) to complete the implementation of the Green West of Bremen to Kwamashu Township Project terminating 2023-12-31.
- 2.8.4 That the Head: Economic Development report back to the Economic Development and Planning Committee upon the conclusion of the Green Bremen West to Kwamashu Township Project, about the benefits derived by the Municipality and local communities.

F/Y	BU	Item	Funding	Costing	Project	Region	Excl Tax
2022/2023	26102	25195	79281	0000	42910	0010	R920 730.00

FC No.: 2023/18/59

**DEFERRED, to a Special Meeting.**

- 2.9 Request for Authority to Receive Funding and to Enter Into Strategic Partnership with Food and Beverages Manufacturing Sector Education and Training Authority to Implement NVC Business Management Skills Project (20/1/7/5):  
(Page 216 : Economic Development and Planning Committee – Supplementary Agenda 2023-05-24)

Authority is sought for the Agribusiness Department to receive funding and enter into strategic partnership agreement with Food and Beverages Manufacturing Sector Education and Training Authority (FoodBev SETA) and implement New Venture Creation (NVC) Learnership in Business Management Skills during the 2023/2024 financial year.

The Food and Beverages Manufacturing Sector Education and Training Authority's (FoodBev SETA) function is to promote, facilitate and incentivise skills development in the Food Beverage Manufacturing Sector. FoodBev SETA is one of 21 Sector Education and Training Authorities (SETAs) across the economy mandated to put the National Skills Development Strategy (NSDS) into practise.

The eThekweni Municipality strategically positioned the Agri-business Department to facilitate and implement Agri-Business Development programmes, target and support Agri-Business investment, provide research, policy and innovation services. The partnership funding will enable Agri-Business Department to implement New Venture



Creation Learnership in Business Management Skills that seeks to improve farmers' business management skills that will ensure a resilient farm enterprise development, promote reliable access to markets, bring innovative business knowledge and methods that are sustainable, upskilling and empowerment of farmers, develop management competencies required in the workplace and promote Agricultural Ventures to Women and Youth.

The learnership will focus in the North, South and West region of eThekweni, taking into consideration the location of Agri-Hubs where learners/trainees will be placed for practical training. The location and number of candidates that will be trained is stipulated in the table below:

REGION	NUMBER OF CANDIDATES
eThekweni North	40
eThekweni South	30
eThekweni West	30
<b>TOTAL</b>	<b>100</b>

Having noted that this is in line with Integrated Development Plan 2 objective which is "Economic Growth and Job Creation,

#### COMMITTEE RECOMMENDS:

That authority be granted for the City Manager to, on behalf of the eThekweni Municipality, enter into a 12-month partnership with Food and Beverages Manufacturing Sector Education and Training Authority (FoodBev SETA) to receive funding in the amount of R6 236 000.00 (Six Million Two Hundred and Thirty Six Thousand Rand) and facilitates the implementation of New Venture Creation Learnership in Business Management Skills that seeks to improve farmers' business management skills that will ensure a resilient farm enterprise development, promote reliable access to markets, bring innovative business knowledge and methods that are sustainable, upskilling and empowerment of farmers, develop management competencies required in the workplace and promote Agricultural Ventures to Women and Youth.

#### Financial Implications

Learning Programme: New Venture Creation NQF Level 4

SAQA ID: 66249

No. of Credits:149

Number of Learners	Employment status	Training Duration	Stipend per learner	Total training cost	Total budget
100	Unemployed	12 months	R36 000	R58 000	R5 800 000
			Management fee @ 7.5%		R 435 000
	<b>TOTAL</b>				<b>R6 235 000</b>

#### **DEFERRED, to a Special Meeting.**

2.10

Request for Authority to Fund Community Tourism Organisations (20/1/4/3):

(Page 236: Economic Development and Planning Committee – Supplementary Agenda 2023-05-24)

Community Tourism Organisations (CTOs) are an independent local organisation responsible for promotion of tourism establishments and tourism operators within local area. Tourism business is key to the government priorities and therefore allocation is made to support the industry to promote destination eThekweni locally and internationally. The industry is also known for generating job opportunities.

In terms of funding support to the CTOs are due to develop business plans and commit to achieving targets contained therein. Audit financial statements are also required as part of the condition prior to the disbursement of funding. This submission serves to advise of three CTOs that have now submitted the necessary document and qualify to receive funding support for tourism promotion. There are five other CTOs that are yet to achieve the necessary compliance requirements in order to qualify for the funding support. It should be noted that budget provision has been made for the CTOs funding in the 2022-23 financial year and funds will be disbursed as and when CTOs achieve the necessary compliance requirements.

Authority is then sought to disburse funding in the amount of R267 750.00 (Two Hundred and Sixty-Seven Thousand Seven Hundred and Fifty Rand) per each CTOs, namely, Durban West; Sapphire Coast; and Durban Central Tourism for the tourism business undertaken in the 2022-23 financial year.

The Executive Committee supported the approach taken by the Unit to allocate funding as the CTOs achieve the necessary compliant requirements. Further, that consideration be also given to empowering them on how to comply. The importance of establishing their business locations and nature of products offering was also cited

With consensus being reached on the importance to promote tourism using different angles yielding positive results, accordingly,

**COMMITTEE RECOMMENDS:**

That authority be granted for the disbursements of grant funding in the amount of R267 750.00 (Two Hundred and Sixty-Seven Thousand Seven Hundred and Fifty Rand), in line with Section 67 of the Local Government Municipal Financial Management Act (MFMA) for each CTOs, namely, Durban West; Sapphire Coast; and Durban Central Tourism for the tourism business undertaken in the 2022-23 financial year, following the submission of compliant audited financial statements

No.	CTO Name	Status	Action	Total Allocation
1	Durban West	Compliant	Payment disbursement	R267 750.00
2	Sapphire Coast	Compliant	Payment disbursement	R267 750.00
3	Durban Central Tourism	Compliant	Payment disbursement	R267 750.00

FC No. 2023/13/17

**It was reiterated that the CTOs remain the City's ambassador in terms of the promotion of local tourism establishments and tourism operators. Mention being made that the Municipality is expected to provide necessary support including financial management, audit processes etc, as other CTOs did not meet the criteria to access funding allocated by the Municipality due to non-compliance with the financial management processes.**

**Thereafter, the above recommendations were unanimously; ADOPTED.**

2.11 Reprioritization of the Economic Development Unit Capital Budget (7/1/2/2 & 7/4/2):  
(Page 241 : Economic Development and Planning Committee – Supplementary  
Agenda 2023-05-24)

Authority is sought for implementation of Bridge City Informal Traders facilities project. In addition, authority is sought for the approval of the reprioritisation of capital budget funding to ensure full expenditure of the Neighbourhood Development Partnership Grant Funding. Furthermore, authority is sought for the approval of the reprioritisation of capital budget funding to ensure full expenditure of the surplus funding from City funded project.

The Economic Development Unit is the custodian of National Treasury's Neighbourhood Development Partnership (NDP) Grant with eThekweni Municipality. The NDP Grant has been successfully funding township neighbourhood development projects to develop the township economy and improve the quality of life of residents in the targeted areas. The purpose of the grant is to fund, support and facilitate the planning and development of neighbourhood development programmes and projects that will be catalysts for further public sector development in these areas.

In eThekweni Municipality the three urban hubs include the South Urban Hub (Umlazi Township), North Urban (Bridge City) and the West Urban Hub (Mpumalanga). The Urban Networks Strategy provides a systematic approach to leverage private sector investment in strategic locations via a co-ordinated set of spatially targeted interventions. This is aimed at creating a network of strategically located centres of economic and social activity.

The Executive Committee supported measures being implemented to secure grant allocation, and subsequently,

**COMMITTEE RECOMMENDS:**

- 2.11.1 That the project authority for the implementation of the Bridge City Informal Traders facilities project, be approved.
- 2.11.2 That the reprioritisation amounting to R2 400 000.00 (Two Million Four Hundred Thousand Rand) from KwaNozaza Development Node and R3 642 762.64 (Two Million Six Hundred and Forty Two Thousand Seven Hundred and Sixty Two Rand and Sixty Four Cents) from Mpumalanga Precinct Upgrade (Boxer Node) to the Bridge City Informal Traders Facilities in the 2022/0223 financial year respectively, be approved.
- 2.11.3 That subject to the adoption of .2 above, the re-allocation of budgets would then be regularised during the final adjustment budget process.

**Financial Implications:**

Council funded budget total amounting to R2 400 000.00 (Two Million and Four Hundred Thousand Rand) and NDPG Funding to the value of R3 642 762.64 (Two Million Six Hundred and Forty Two Thousand Seven Hundred and Sixty Two Rand and Sixty Four Cents) has been identified from two projects, this in order to fund the Bridge City Informal Traders Facilities.

Bu	Item	Fund	Cost	Project	Region	Expenditure Proposed (Incl. VAT)	Financial Year End

26101	45348	51040	0000	S1032C	W091	R3 642 762.64	2022/23
26101	45304	91104	0000	S1111AZ1	W042	R2 400 000.00	2022/23

**Some Councillors were not satisfied with the manner in which various grants funding has been managed. They cited a number of challenges disrupting implementation of projects, reference being made to interruptions by business forums. That this result in funding being haphazardly re-directed to other areas to avoid funding being recalled by the National Treasury.**

**However, the above recommendations were unanimously; **ADOPTED.****

2.12

Reprioritization to the Economic Development Unit Capital Budget to Fund Umlazi V Griffiths Mxenge Highway Traders Park Project (20/1/7/6):

(Page 245 : Economic Development and Planning Committee – Supplementary Agenda 2023-05-24)

Authority is sought for the approval for Griffiths Mxenge Highway Traders Park Project. In addition, authority is sought for the approval of the reprioritisation of capital budget funding of Umlazi V, Griffiths Highway Traders Park Project.

The Business Support Tourism, Markets and Agri-Business Unit, working jointly with the Economic Development Unit embarked on a journey to develop Umlazi V node in 2018 with the intention to cultivate the township economy. Part of the development included developing the public realm on Sibusiso Mdakane Road and part of Griffiths Mxenge Highway. The development also affected forty four (44) businesses that were operating within the vicinity informally with the intention to build a new structure that will house all the forty four (44) businesses. Proper consultation was conducted with all the forty four (44) businesses (informal Traders), that were going to be affected. The informal traders were also informed that the new structures will cater for all the existing activities that are currently taking place on site taking into consideration that the following activities were taking place on site; salon, electrical appliances, food handlers dry clean/laundry, fruits and vegetables, dry goods, manufacturing cabinets and office space.

The project is estimated to cost R15 000 000.00 (Fifteen Million Rand) and with the intervention of the Office of the Mayor and ongoing pressure from the community the Economic Development Unit has taken a decision to expedite this project and has sourced saving of R11 500 000.00 (Eleven Million Five Hundred Thousand Rand) in the 2022/2023 Financial Year and reallocated R3 500 000.00 (Three Million Five Hundred Thousand Rand) from its 2023/2024 budget allocation. Savings identified in the 2022/2023 financial year of R6 500 000.00 (Six Million Five Hundred Thousand Rand) have been sourced from the Catalytic Projects Unit after cashflows anticipated in the last quarter of the 2022/2023 resulted in savings of R6 500 000.00 (Six Million Five Hundred Thousand Rand) for Ntshongweni projects. The R5 000 000.00 (Five Million Rand) has been sourced from the City Hall Unit due to delays in implementing the City Hall Upgrade Relative to Storm Water Damage project.

In order to fully fund the estimated cost, the unit has reallocating R3 500 000.00 (Three Million Five Hundred Thousand Rand) in its budget allocation for the 2023/2024 financial year from the KwaMashu safe Hub project following consultation processes.

During consideration at the Executive Committee level, it was confirmed that this project includes a number of forty (40) households displaced during the renovation of

Mdakane Road at Umlazi. The Committee was pleased about the progress made to reinstate the households and also undertook to launch this project accordingly as part of reporting the initiative of the Municipality in this regard

**COMMITTEE RECOMMENDS:**

- 2.12.1 That full project authority for Griffiths Mxenge Highway Traders Park, be approved.
- 2.12.2 That the reprioritisation amounting to R6 500 000.00 (Six Million Five Hundred Thousand Rand) from Ntshongeni Project and R5 000 000.00 (Five Million Rand) from City Hall Upgrade Relative to Storm Water Damage project to the Griffiths Mxenge Highway Traders Park in the 2022/2023 financial year, be approved.

**Financial Implications**

Council funding of R11 500 000.00 (Eleven Million Five Hundred Thousand Rand) has been identified in the 2022/2023 financial year and R3 500 000.00 (Three Million Five Hundred Thousand Rand) in the 2023/24 financial year to fund the Griffiths Mxenge Highway Traders Park in the 2022/2023 and 2023/2024 financial years.

BU	Item	Fund	Costing	Project	Region	Expenditure proposed (incl. VAT)	Financial year end
26750	45130	91104	0000	CP005A	W007	R6 500 000.00	2022/23
32155	45506.22	30015	0000	G1053	R001	R5 000 000.00	2022/23
26101	45348.30	51080	0000	S1060E	W047	R3 500 000.00	2022/23

**ADOPTED.**

- 2.13 Agri Processing Investment Program and the Partnership with Forum for Agricultural Research in Africa and the African Union (20/1/7/5):  
(Page L71: Economic Development and Planning Committee - Agenda 2023-05-24)

Authority is sought to invest in an Agri-processing investment promotion partnership agreement between Invest Durban and the Forum for Agricultural Research in Africa (FARA), the African Union's (AU's) technical advisor for the investments into the Common Area Agri Parks (CAAPs). In addition, authority is sought for the approval to exhibit in the Conference and Exhibition during the 8<sup>th</sup> Africa Agribusiness and Science Week (AASW) and FARA General Assembly Program, from the 5<sup>th</sup>-8<sup>th</sup> of June 2023.

The Forum for Agricultural Research in Africa, which is the technical arm of the African Union responsible for co-ordinating and advocating Agricultural Research for Development (AR4D), will be hosting their annual Africa Agribusiness and Science Week and General Assembly for the very first time in South Africa to be held from the 5-8 June 2023 at the Durban International Convention Centre. The event will be all encompassing and take the format of an Agritech exhibition, conference with technical workshop sessions, investment forums, in-site location visits of commercial manufacturing and research facilities, plus active farms. The programme is attracting delegates, partners and members from forty (40) countries in Africa including speakers from Europe and the United States of America.

The aim is to attract forty (40) exhibitors and eight hundred (800) conference delegates, including buyers. The Africa Agribusiness and Science Week program will focus on five (5) broad thematic areas namely, building and sustaining and resilient

food systems, creating an Agribusiness enabling environment for impact, knowledge management and the Digitalisation of agriculture via Youth and Female Entrepreneurship, developing Africa's Climate Resilience to create Sustainable and Nutritious food systems, and harnessing science and business collaboration to book intra and Intercontinental Africa trade.

The DA and the IFP abstained on this matter, and with the other Parties present being in support,

**COMMITTEE RECOMMENDS:**

- 2.13.1 That the Units participating in the Common Area Agri Parks Investment Program via an Exhibition Stand on 2023-06-05 Africa Agribusiness and Science Week at the Durban International Convention Centre, be approved.
- 2.13.2 That and investment of USD 40k in the Agri Processing Investment Promotion Partnership Program of Forum for Agricultural Research in Africa and the African Union via a Memorandum of Agreement in terms of Section 67 of the Local Government Municipal Finance Management Act to govern the investment Partnership, be approved.
- 2.13.3 That the City Manager be authorised to conclude and sign a Memorandum of Agreement in terms of Section 67 of the Local Government Municipal Finance Management Act to govern the investment Partnership.

**Financial Implications:**

Corporate and Municipal Activities	91000.16315.12120.0000 .MRC01.0010	R750 000.00	2023/2024 FY
Corporate and Municipal Activities	91000.16315.12120.0000 .MRC01.0010	R200 000.00	2022/2023
<b>TOTAL</b>			<b>R950 000.00</b>

**DEFERRED, to a Special Meeting.**

3. REPORT OF THE HUMAN SETTLEMENTS AND INFRASTRUCTURE COMMITTEE: MEETING HELD: 2023-05-26

(Page R5)

3.1 Request for Authority to Host the 26<sup>th</sup> Annual Southern African Revenue Protection Association Convention on 03-04 August 2023 at the Inkosi Albert Luthuli International Convention Centre (13/2/1/1/1):

(Page 92: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Authority is sought for the eThekweni Municipality's Electricity Unit to incur expenditure in the amount of R405 553.50 (Four Hundred and Five Thousand Five Hundred and Fifty-Three Rand Fifty Cent), to host the 2023 Annual Convention of the Southern African Revenue Protection Association (SARPA) from 03 to 04 August 2023 at Inkosi Albert Luthuli International Convention. SARPA is an association of Municipal electricity utilities; National Departments; parastatals; commercial; academic; other Municipal associations and other organisations having a

direct interest in the electricity supply and distribution industry in Southern Africa. The intention is to promote the following:

- Effective revenue protection; debt collection; and combatting of infrastructure theft.
- Quality of service and management excellence amongst its members in the field of electricity supply and distribution.
- Communication between its members.
- Communication between members and the technical; economic; and political environment, in order to influence that environment.

SARPA stakeholders include the following, amongst others:

- (i) Electrical Utilities (AMEU);
- (ii) South African Local Government Association (SALGA);
- (iii) Department of Energy (DoE);
- (iv) Department of Labour (DoL);
- (v) Department of Co-operative Governance and Traditional Affairs (CoGTA);
- (vi) The National Energy Regulator of South Africa (NERSA);
- (vii) Municipal Infrastructure Support Agency (MISA); National Treasury; CIGFARO; IMFO; IMESA; NFMCCC; and Eskom.

### **MOTIVATION**

The SARPA objectives are as follows:

- (i) To promote the interest of electricity utilities and to collaborate with other stakeholders in the pursuance thereof;
- (ii) To bring together Municipal Councils or Board representatives, Electrical Engineers, Technical and Revenue Managers, all persons interested in the advancement and development of electricity utilities, and to promote wider contact and the exchange of views;
- (iii) To arrange and hold Conventions and Technical Conventions for the reading of papers and the discussion of subjects pertaining to electricity utilities and to make recommendations on matters requiring joint action to establish branches consisting of electricity utilities with joint interests;
- (iv) To affiliate with, or seek membership of such organisations as may be decided upon by the Executive Council;
- (v) To foster the establishment of organisations outside the boundaries of South Africa, having objectives similar to those of the Association, and to assist them technically and financially in such fields as may be deemed desirable by the Executive Council;
- (vi) To organise or participate in international meetings of organisations having objectives similar to those of the association, and in general to foster the exchange of information in the field of electricity supply;
- (vii) To actively promote training in the utilities environment;
- (viii) To promote quality service and management excellence amongst members so that their customers receive value for money;
- (ix) To provide an advisory service for its members, customers and associates.
- (x) To influence policy decisions at a national level.

The organising and arranging of the SARPA Annual Convention, including funding, usually involves co-ordination between SARPA's National Secretariat, the host Municipality, affiliates committees and certain sponsor companies. In hosting the

2023 SARPA Convention, the eThekweni Municipality will be required to provide the following support:

- (i) Volunteer staff from the Electricity Unit to assist with Joint Operating Centre submissions together with the SARPA Secretariat.
- (ii) The Electricity Unit to sponsor the hiring of the Inkosi Albert Luthuli International Convention Centre for 3 and 4 August 2023.
- (iii) Employees from the Electricity Unit to provide limited event organising and administrative support from 02 to 04 August 2023.
- (iv) The City's Communication Department and the Office of the Mayor will also be required to provide support for the Mayoral Cocktail Function.
- (v) Opening Address at the Convention by His Worship the Mayor or his nominated representative.
- (vi) Hosting the Mayoral Cocktail Function.

In terms of the Convention Programme, His Worship the Mayor or his representative is required to officiate the opening of the Convention on 03 August 2023. Traditionally, keynote address by the Ministers of Energy or CoGTA and/or the CEO of NERSA is included on the first and second day of the Programme.

**Benefits of hosting the SARPA Convention by eThekweni Municipality**

The 2023 SARPA Convention is an international convention that is attended by approximately 150 delegates. These delegates include:

- Councillors from various Municipalities around South Africa;
- Members and guests from Southern Africa and abroad;
- Municipal and Consulting Engineers from South Africa, East and Southern Africa and other international countries; and
- Representatives from the manufacturing industry, NERSA; DoE; DoL; Department of Local Government and Housing; SALGA; Eskom; Local Government Sector Education and Training Authority; South African Bureau of Standards (SABS); South African Institute of Electrical Engineering (SAIEE); Council for Scientific and Industrial Research (CSIR); Engineering Council of South Africa (ECSA); EE Publishers; and members of the Media.

The anticipated overall benefits of hosting the 2023 Convention are as follows:

- (i) Hosting of the Convention promotes Durban as an international tourist destination.
- (ii) It creates the opportunity for His Worship, the Mayor of eThekweni to welcome the delegates and market eThekweni Municipality and to share with the delegates and members of the Media the vision of the Municipality.
- (iii) It creates a platform for the relevant Cabinet Ministers to address the audience as keynote speakers and to visit eThekweni Municipality.
- (iv) The Convention is designed to strengthen adherence to good governance principles and strategic objectives of all delegates including Councillors, Engineers, manufacturers, municipal officials, students and all stakeholders in the electricity and energy sector.
- (v) As part of the Convention proceedings, His Worship the Mayor is given an opportunity to host the delegates at the Mayoral Cocktail Function organized by SARPA.
- (vi) The Convention provides the opportunity for wide interaction between stakeholders in the electricity and energy industry.



- (vii) It provides an opportunity for exhibitors to obtain exhibition space in order to showcase their products and services and thereby expand their market share.
- (viii) There is an opportunity to share experiences and learn about the macro socio-political drivers in the industry.
- (ix) Intellectual sharing between peers is stimulated.
- (x) The SARPA event may be used as a platform to profile eThekweni Municipality to the industry thereby boosting the local economy and boost tourism.
- (xi) The Convention provides the opportunity to track and debate industry trends and issues.
- (xii) Indirect financial spin off to the Municipality as a result of hosting approximately 150 delegates in the Durban International Convention Centre. Accommodation and transport services for at least two days will be required. Other participants in the hospitality industry such as restaurants and food outlets will also be able to capitalise on the event. Many delegates bring family members and extend their stay which will have a potential to add more visitors to eThekweni Municipality.
- (xiii) Provides opportunity for the City's Communication Department to advertise internally and externally.
- (xiv) EE Publishers will publish SARPA proceedings; AMEU newsletters to be issued; and special EE publications at national level. This will include acknowledgement by SARPA of the contribution made by the eThekweni Municipality.

The Committee supported the hosting of this Convention and requested the Head: Electricity to provide update report to the Human Settlements and Infrastructure Committee.

With the Committee being in agreement,

#### COMMITTEE RECOMMENDS:

- 3.1.1 That, taking into account benefits to be derived, Council grants authority for the eThekweni Municipality's Electricity Unit to host the 2023 Annual Convention of the Southern African Revenue Protection Association (SARPA) from 03 to 04 August 2023 at the Inkosi Albert Luthuli International Convention Centre.
- 3.1.2 Subject to the approval of 3.1 above, authority be granted for the Head: Electricity to incur expenditure in the amount of R405 553.50 (Four Hundred and Five Thousand Five Hundred and Fifty-Three Rand Fifty Cent) which amount serves as the primary costs and co-payment in the SARPA Annual Convention.
- 3.1.3 That it be noted that SARPA will fund the secondary costs of the Convention in the amount of R180 000.00 (One Hundred and Eighty Thousand Rand).
- 3.1.4 That it be noted that His Worship the Mayor and/or his representative is to provide an opening address on Day 1 of the Convention.
- 3.1.5 That His Worship the Mayor and/or his representative hosts the Mayoral Cocktail Function in the exhibition area at the end of Day 1.
- 3.1.6 That permission be granted for employees to assist in organizing the event and also attend to related administration matters.

**Financial Implications:**

**eThekweni Municipality:** R405 553.50  
**SARPA:** R180 000.00

The tables below reflect the primary and secondary costs of the SARPA Convention:

Description-Primary Costs	SARPA ®	eThekweni Electricity ®	Total®
ICC-Venue hire cost inclusive of the Gala Dinner and catering, plus estimated AV costs	0	R 405 553.50	R405 553.50
<b>Sub-total cost to eThekweni Electricity</b>	<b>0</b>	<b>R405 553.50</b>	<b>R405 553.50</b>

Description-Secondary Costs	SARPA ®	eThekweni Electricity ®	Total ®
Awards and Prizes	R20 000	0	R20 000
Delegate document bags, marketing & branding collateral	R30 000	0	R30 000
Entertainment for Gala Dinner	R50 000	0	R50 000
Spouses Programme	R80 000	0	R80 000
<b>Sub-total cost to SARPA</b>	<b>R180 000</b>	<b>0</b>	<b>R180 000</b>
<b>Total Cost</b>	<b>R180 000</b>	<b>R405 553.50</b>	<b>R585 553.50</b>
	31%	69%	100%

**Vote No: 37101.19925.11100.0000.64100.0010**  
**FC No.: 79/3001**

**DEFERRED, to a Special Meeting.**

3.2

**Request for Authority to Transfer Funds from the Vehicle Vote to the Heavy and Mobile Plant Vote (8/3/1/R):**

(Page 146: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Authority is sought to transfer funds in the amount of R2 385 210.00 (Two Million Three Hundred and Eighty-Five Thousand Two Hundred and Ten Rand) from the Vehicle Vote to the Heavy and Mobile Plant vote within the Cleansing and Solid Waste Unit to support the landfill operations.

The reasons for the proposed vote transfer are detailed below as follows:

- (i) Historically, the Cleansing & Solid Waste (CSW) Unit has experienced underfunding in its capital budget for the replacement of heavy plant, in particular, the landfill dozers. This has negatively affected the CSW fleet. Further, the moratorium placed on the Municipal-wide procurement of vehicles, by the City Manager from 2016 to 2018, adversely impacted the CSW Fleet Replacement Programme and, has collectively contributed to the fleet creep currently being experienced across the CSW. This has resulted in CSW not being able to effectively ensure the required level of service for basic waste management services can be sustained.

- (ii) The CSW and the City Fleet Units have worked closely following the budget approval and the subsequent critical tender processes for the waste fleet, ranging from specialized waste collection fleet to heavy plant, but unfortunately, a non-award was subsequently declared by the Bid Adjudication Committee (BAC) for the dozer
- (iii) The CSW Unit has a total of 10 dozers, of which 3 are inactive and 7 active. The active units are distributed as follows:
  - 2 units at Buffelsdraai landfill site;
  - 1 unit at Bisasar road landfill site;
  - 2 units at Lovu landfill site;
  - 1 unit at Shallcross garden site; and
  - 1 unit at Marianhill landfill site.
- (iv) The current active CSW landfill dozers are averaging around ten thousand (10 000) hours and the Original Equipment Manufacturer (OEM) recommendation is that all items of plant > 10 000, be rehabilitated. Although the dozers have reached the 10 000 hours mark, they still have useful life except for the tracks which are worn out and in need of urgent replacement.
- (v) Replacement of OEM's tracks for the landfill dozers offers a further 3 000 hours of extended life which is the industry norm and best practice for asset management. This means an extended use of the dozers for some 17 months.
- (vi) The landfill dozers are used on landfill sites, either to move and spread waste or to spread cover material over compacted waste at the end of the day, hence is a critical plant item in landfill operations. Covering of waste on landfill sites is a legal requirement and a compliance with the landfill permit.
- (vii) The increased useful life is significantly welcomed whilst waiting for the dozer re-tender process to take its course to conclusion.
- (viii) Contract CF 39/21 was declared non-award at the BAC level, and once publication has been issued in this regard, a new 36-month contract process will be initiated, with the intention to secure tender for landfill dozers by November 2023.

Given the reasons outlined above, the Committee support the vote transfer, also taking into account the legislative requirement guiding effective waste management, as well as the impact on the environment.

Accordingly,

#### COMMITTEE RECOMMENDS:

That approval be granted for the transfer of funds in the amount of R2 385 210.00 (Two Million Three Hundred and Eighty-Five Thousand Two Hundred and Ten Rand) from the Vehicle Vote to the Heavy and Mobile Plant Vote within the Cleansing and Solid Waste Unit, to support the landfill operations and effectively undertake the waste management function.

#### **ADOPTED.**

(Page 152: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Authority is sought to permanently close the road in Portion of the Remainder of Erf 1 Durban in an approximate extent of 205,454,708 square meters, as depicted on Hand Plan No.: SJ 4724/4. The proposed road closure, if approved, will be undertaken in accordance with the requirements in terms of Section 211 of the Local Authorities Ordinance No. 25 of 1974, read together with Section 28 (2) (e) of the eThekweni Municipality: Planning and Land Use Management By-law 2016, as amended. The road area is designated as an existing street. The closure of the road on the Property, is required to enable the development and facilitation of a social housing development scheme, which is being administered by the eThekweni Municipality's Human Settlements Unit.

The Human Settlements Unit intends developing a Social Housing Development Scheme consisting of six hundred (600) units over Erf 3405, Erf 3406 Durban and the Property in approximate total extent of 2265 square meters, as depicted on Hand Plan No.: SJ 4724/4, marked as Annexure A of the report by the Head: Real Estate.

The three properties described as Erf 3405, Erf 3406 Durban and the Property in approximate total extent of 2265 square metres are strategically located within close proximity to the Durban beachfront, the Durban station, and the Durban central business district respectively. Utilization of these properties for social housing development provides an invaluable opportunity to redress the imbalance of the past and achieve transformation in relation to residential areas. Furthermore, this will provide much needed residential opportunity for low and moderate-income households to have access to housing opportunities and socio-economic resources within the Inner City of Durban. For the social housing development to take place, the road over the Property needs to be closed.

It is necessary for all road closures and public open space areas to be considered and approved in terms of Sections 211 and 212 respectively, of the Local Authorities Ordinance No. 25 of 1974 and Section 28 (2) (e) of the eThekweni Municipality: Planning and Land Use Management By-law 2016, as amended. The road over the Property is currently designated as an existing street and therefore it is necessary to approve closure.

With the Committee being in agreement,

#### COMMITTEE RECOMMENDS:

- 3.3.1 That in terms of Section 211 of the Local Authorities Ordinance 25 of 1974, read together with Section 28(2) of the eThekweni Municipality Planning and Land Use Management By-law 2016 as amended, the closure of the road over the property, described as Proposed Portion of the Remainder of ERF 1 Durban in an approximate extent 205 454708 square meters, also depicted on Hand Plan No.: SJ 4724/4, with the road extent calculation being depicted on the geographical information system, be approved.
- 3.3.2 That upon obtaining approval by the Municipal Council, the road closure be advertised via the application process of the eThekweni Municipality: Planning and Land Use Management By-Law 2016, as amended.

- 3.3.3 That in the event of objections being lodged regarding the proposed closure of the road over the property described as Proposed Portion of the Remainder of Erf 1 Durban, in approximate extent 205 454 708 square meters, as depicted on Hand Plan SJ4724/4/, with the road extent calculation being also depicted on the geographical information system, with the process detailed in the eThekweni Municipality: Planning and Land Use Management BY Law 2016, as amended, to be followed to attend to these objections.
- 3.3.4 That all costs involved in this transaction be for the account of the eThekweni Municipality's Human Settlements Unit.
- 3.3.5 That authority be granted for the Head: Real Estate to sign all documents necessary to give effect to the above-mentioned recommendations.

**DEFERRED, to a Special Meeting.**

- 3.4 Proposed Alienation of Erf 570 Ntuzuma – by Public Tender (17/2/1/2/30):  
(Page 174: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Authority is sought to approve intention to alienate the Municipal-owned Property, Erf 570, Ntuzuma-A, Registration Division FT, Province of KwaZulu-Natal in extent 2965m<sup>2</sup>, as depicted on SJ 4747/9, in terms of Regulations 5(1) (b) ), 7, and 12 of the Municipal Asset Transfer Regulations (MATR), 2008, read together with Section 14(2) (a) and (b) of the Local Government: Municipal Finance Management Act, No. 56 of 2003, and to alienate the non-exempted capital asset for less than fair market value in terms of Regulation 13 (2) of the MATR.

With the DA abstaining on this matter, and the other Political Parties present being in support,

**COMMITTEE RECOMMENDS:**

- 3.4.1 That the Municipal Council declares that in terms of Regulation 5 (1)(b), 7, and 12 of the Municipal Asset Transfer Regulations 2008 read together with Section 14 (2)(a) and (b) of the Local Government: Municipal Finance Management Act, No. 56 of 2003:
- 3.4.1.1 The Proposed Property described as Erf 570 Ntuzuma A in extent of 2965m<sup>2</sup> as depicted on Plan SJ4747/9 is not needed to provide the minimum level of Municipal services and is declared surplus to the requirements of the Municipality.
- 3.4.1.2 The market value of the property is currently assessed at the value of R780 000.00 (Seven Hundred and Eighty Thousand Rand), excluding VAT.
- 3.4.2 That the Municipal Council approves proposed alienation for the purpose of constructing the community facilities to be discounted by 90% of the fair market value, having duly considered the principles as set out in Regulation 13(2) of the MATR, it be noted that the discounted value is determined to be R78 000.00 (Seventy-Eight Thousand Rand).
- 3.4.2.1 A reversionary clause shall be included in the title deed of the property stating that the property can only be utilized for community purposes and for ancillary purposes thereto and no other purpose whatsoever.

- 3.4.3 That Erf 570 Ntuzuma-A be sold by public tender at an upset price of R78 000.00 (Seventy-Eight Thousand Rand) and this price to attract payment of VAT.
- 3.4.4 That property is presently zoned as community facility in terms of the Town Planning Scheme and the proposed use on the property remains in accordance with its zoning.
- 3.4.5 That subject to the adoption of .1 to .4 above, authority be granted to the Head: Real Estate to sign all the documentation necessary to give effect to this transaction in terms of the eThekweni Municipality Supply Chain Management Policy and any other applicable legislation and that it shall be subject to such further conditions as the Head: Real Estate considers necessary to protect the Municipality's interest.

**DEFERRED, to a Special Meeting.**

- 3.5 Proposed Granting of Rights to Use, Control or Manage a Lease of Erf 836 Dunns Grant Being a Consolidation of Portions 17,18 and 14 (All of Erf 16) in Extent 5928m as Depicted on Plan SJ4786/9 by Way of a Long-Term Lease and to Approve a Road Closure Over Erf 836 Dunns Grant (21/7/2 & 17/2/1/2/5:  
(Page 192: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

The Committee received the report to apprise the Municipal Council on the outcome of the public participation process conducted for the proposed granting of long-term rights to use, control and manage the proposed property described as Erf 836 Dunns Grant, in extent of 5928m<sup>2</sup> as depicted on Plan SJ 4786/9 Erf 836 Dunns Grant. The outcome thereof indicating no objections received in this regard.

Accordingly,

COMMITTEE RECOMMENDS:

- 3.5.1 That the Municipal Council declares in terms 14 of the Local Government: Municipal Finance Management Act, 56 of 2003 (MFMA) that:
- 3.5.1.1 The proposed property described as Erf Dunns Grant in extent 5928m<sup>2</sup> as depicted on Plan No.: SJ 4786/9 is not needed to provide the minimum level of basic Municipal services and is considered to be surplus to the requirements of the Municipality for the period that the proposed granting of rights to use, control or manage the said property is proposed.
- 3.5.1.2 The Municipality has considered the fair market value of the asset; economic; and community value to be received in exchange for the asset. The current market value of the property is R20 748 000.00 (Twenty Million Seven Hundred and Forty Thousand Rand) at an assessed market rental of R1 528 560.00 (One Million Five Hundred and Twenty-Eight Thousand Five Hundred and Sixty Rand) per annum and R127 380.00 (One Hundred and Twenty-Seven Thousand Three Hundred and Eighty Rand) per month, excluding VAT, has been considered.
- 3.5.2 That Council approves in principle that a right be granted to use, control or manage the capital asset described in extent 5928m<sup>2</sup> as depicted on Plan No. SJ4786/9 in terms of Regulation 34(1)(b), read with Regulation 36 and 41(1) of the Municipal Asset Transfer Regulations 2008, that:
- 3.5.2.1 A long-term right is proposed to be granted in respect of proposed property described as Erf 836 Dunns Grant;

- 3.5.2.2 The rental be assessed on the open market value;
- 3.5.2.3 All conditions received from the Municipality's service Delivery Units form part of the lease agreement to be concluded between the Municipality and successful tenderer.
- 3.5.2.4 The proposed property described as Erf 836 Dunns Grant in extent 5928m<sup>2</sup> as depicted on Plan SJN4786/9 by way of public tender, in accordance with the eThekweni Municipality: Supply Chain Management Policy at a base rental of R1 528 560.00 per annum (R127 380.00 per month) excluding VAT, escalating by 7% per annum and reviewable every 5 (five) years for a period of 45 years.
- 3.5.2.5 All costs incidental to the transaction shall be borne by the lessee, and all the developmental plans must be submitted to the local authority for approval prior to any construction.
- 3.5.2.6 The rental be suspended for the development period stipulated on the bidders proposal or until the practical completion certificate is issued (whichever comes first) from date of registration of the lease to allow for the refurbishment/development of the property, provided that the development period or period until the practical completion certificate is issued does not exceed 3 years from the date of registration of the lease provided that the capital is above R30 000 000.00 (Thirty Million Rand).
- 3.5.2.7 Should the developer not complete the development within a three- year period, application must be made to the Head: Real Estate to submit a request to the Municipal Council to consider an extension of time, without any further rental suspension, to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 3.5.3 That subject to the adoption of .1 to .2.7 above and compliance with the eThekweni Municipality: Supply Chain Management policy, authority be granted to the Head: Real Estate to sign all documents to conclude the required lease agreement.
- 3.5.4 That in terms of Section 211 of Ordinance No 25 of 1974, read together with Section 28(2)(e) of the eThekweni Municipality: Planning and Land Use Management By-Law 2016, as amended, the closure of the existing road area over Erf 836 Dunns Grant, as depicted on SJ Plan 4786/9, be approved.
- 3.5.5 That the proposed road closure, be advertised via the Land Use Management application process, read together with Section 28(2)(1) of the eThekweni Municipality Planning and Land Use Management By-Law 2016 as amended.
- 3.5.6 That in the event of objection being lodged regarding the proposed closure of Erf 836 Dunns Grant as depicted on SJ 4786/9, when it is advertised, the process detailed in the eThekweni Municipality: Planning and Land Use Management By law 2016, as amended, be followed to attend to these objections.

**DEFERRED, to a Special Meeting.**

- 3.6 Proposed Long-Term Lease on Proposed Erf (A) and Proposed Lease on Proposed Erf (A), Erven 564,565 and 566 All of Folweni B, Situated at 24 Ndabezitha Road for General Business Purposes, as Depicted on SJ Plan No 4758/7 (17/2/1/2/5):  
(Page 235: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

COMMITTEE RECOMMENDS:

- 3.6.1 That in terms of Section 211 of ordinance 25 of 1974, the closure of a road portion described as proposed Erf (A) which traverses between proposed Erf (A), Erven 564, 565 and 566 all under Folweni B, as per Hand Plan No. SJ 4768/7, be approved, and upon receiving approval by the Municipal Council, the proposed closure be advertised via the Land Use Management application process, read together with Section 28 (2)(1) of the eThekweni Municipality and Land Use Management By-laws 2016.
- 3.6.2 That Council approves, in principle, that the right be granted to use, control or manage the Capital Asset described as proposed Erf (A) and proposed lease on proposed Erf (A), Erven 564,565 and 566 all of eFolweni B, province of KwaZulu-Natal of Regulation 34(1)(b) read with Regulation 36 and 41 of the Municipal Asset Transfer Regulation 2008 (MATR) that:
- 3.6.3.1 The properties are not required to provide the minimum level of Municipal services for a period of 30 years.
- 3.6.3.2 The proposed lease is for a period of 30 years.
- 3.6.3.3 That the current market rental value of the properties is assessed at a value of R8500.00 per month excluding VAT and to reviewed time to time.
- 3.6.3.4 That the properties be leased in accordance with the provision of supply Chain Management Policy and the Preferential Procurement Policy framework which supports Radical Economic Transformation.
- 3.6.4 That all costs incidental to the transaction shall be at the cost of the lessee to whom the right to use, control or manage the capital asset is to be granted.
- 3.6.5 That all developmental plans must be submitted to the local authority for approval prior to any construction.
- 3.6.6 That subject to the adoption of .1 to .5 above, and approval by the Bid Adjudication Committee, authority be granted for the Head: Real Estate to sign all the document necessary to give effect to this transaction in terms of the Supply Chain Management Policy of the Municipality, the Municipal Asset Transfer Regulation 2008, the Land Disposal and granting of Rights Policy of the Municipality and any other applicable legislation and that it shall be further subject to such further conditions as the Head: Real Estate considers necessary to protect Council interest.

**DEFERRED, to a Special Meeting.**

- 3.7 Request to Amend “Start” and “End” Dates of the Council-Approved Memorandum of Agreement to be entered into between the eThekweni Municipality and the University of KwaZulu-Natal to Address Water and Sanitation Service Delivery and Operational Challenges (WS2023/067) (23/1/9):  
(Page 253: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

The Committee received a report requesting amendment to be effected on the Council-approved Memorandum of Agreement (MOA), to be entered into between the eThekweni Municipality and the University of KwaZulu-Natal, to address Water and Sanitation Service Delivery and Operational Challenges.



The amendment refers to changing dates given the delays as result of the administrative processes associated with the (MOA) and thus a loss of seven (07) months, in terms of the MOA duration. Acting on the advice by the Legal and Compliance Unit, it is kindly requested to change MOA duration as follows:

Original Date	New Date
Commencing 01 January 2022	Commencing 01 August 2022
Terminating 31 December 2024	30 June 2025

As a way of background, the Municipal Council at its meeting of 29 June 2021, adopted the following resolution:

*That authority be granted for the Head: Water and Sanitation to facilitate the process of conducting research to address water and sanitation service delivery and operational challenges with a view to developing and attracting students from previously disadvantaged backgrounds to the sector and expanding innovation to solve current and future water and sanitation challenges within the eThekweni Municipality, which research process will last for a three (3) year period with effect from 2022-01-01 to 2024-12-31, and to be conducted at a total cost of R8 849 500.00 (Eight Million Eight Hundred and Forty Nine Thousand Five Hundred Rand), excluding VAT, and to be funded from savings identified within the Unit. As contained in the Annexure A of the report by the Head: Water and Sanitation dated 2023-04-17.*

A letter of award (signed 22 July 2022) was issued to the UKZN in terms of Section 110(2) of the Municipal Finance Management Act (WS-2021/213). The drafting of the MOA between the eThekweni Municipality and the UKZN has been driven by the Water and Sanitation Unit with support from the Legal and Compliance Unit. The MOA is in its final draft and is pending sign off by the City Manager upon vetted by the Legal and Compliance Unit.

It was advised that based on the signature of the Letter of Award, the Legal Advisor assigned to drawing up of this MOA has advised that the contract period has been deemed to start on 01 August 2022. Therefore, if the previously Council adopted timeframe is applied to the MOA, the project will effectively lose 7 months as it will be deemed to have been started 01 August 2022 and terminating 31 December 2024 (29 months). Therefore, to maintain the original period of 3 years adopted by Council, and to be within the appropriate Municipal financial years that the project has been budgeted for, it is requested that timeframe of the project dates be amended.

The attention of the Committee was drawn to the fact that the amendment requested does not have financial implications. The amount of R8 849 500.00 (Eight Million Eight Hundred and Forty-Nine Thousand Five Hundred Rand), previously adopted by Council is still valid as per the MOA validity date of 01 August 2022 to 30 June 2025.

Referring to overall water challenges, the Committee recommended the convening of the workshop to unpack all issues relating to water and sanitation and that the National Department of Water and Sanitation.

With the Committee being in agreement,

COMMITTEE RECOMMENDS:

- 3.7.1 That, in view of the Council-approved 3-year Memorandum of Agreement (MOA) to be entered into between the eThekweni Municipality and the University of KwaZulu-Natal, effective 01 January 2022 to 30 December 2024, still at the finalisation stage by the Legal and Compliance Unit, and to avoid loss of seven (07) months of the MOA duration period, Council approves amendment of the MOA dates for the effective dates to be now 01 August 2022 to 30 June 2025.
- 3.7.2 That Council notes the change referred to above does not attract financial implications, therefore, the amount of R8 849 500.00 (Eight Million Eight Hundred and Forty-Nine Thousand Five Hundred Rand), previously approved by the Council remains unchanged for this 3-year MOA.

**DEFERRED, to a Special Meeting.**

- 3.8 Noting of Reasons for the Intention to Utilise Section 116(3) of the Local Government: Municipal Finance Management Act No.56 of 2003 to amend Contract WS 7071 for Framework Contracting of the Mechanical/Electrical Services, Ad-Hoc Repair and Refurbishment Function: Wastewater Treatment Works (WWTW)/ Wastewater Pump Stations (SPS)/ Miscellaneous Plant (23/1/11/2/1/1):  
(Page 499: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Contract WS7071 caters for the provision of ad hoc mechanical; electrical repair; and maintenance services for all wastewater pump stations and treatment works throughout the Municipal jurisdiction. This includes two hundred and sixty-seven (267) wastewater pump stations and twenty-seven (27) wastewater treatment works.

Following a full tender process in line with the Supply Chain Management Policy, a 24-month contract was awarded to four (04) companies. The companies support the Water and Sanitation Unit to respond speedily to reported mechanical and electrical equipment failures which could lead to major environmental impacts if left unattended. The companies also supplement work undertaken by internal field workers.

The scope of the propose increase is outlined as follows:

- Increase in contract duration by a further 12 months, taking the total contract duration to 36 months
- Inclusion of capital replacement/upgrade of equipment
- Increase in contract authority for each of the four Contractors

This 24-month contract began May 2021 with a contract sum of R18 112 500.00 (Eighteen Million One Hundred and Twelve Thousand Five Hundred Rand), including VAT), and with each contractor receiving contract value of R72 450.000 (Seventy-Two Million Four Hundred and Fifty Thousand Rand), including VAT. An emergency minor amendment was granted by the City Manager in May 2022 to address urgent storm damage work. This approval equates to a 15% contract authority increase meaning that each contractor's authority increased by R2 716 875.00 (Two Million Seven Hundred and Sixteen Thousand Eight Hundred and Seventy-Five Rand), including VAT, and thus the overall total contract amount of R20 829 375.00 (Twenty Million Eight Hundred and Twenty-Nine Thousand Three Hundred and Seventy-Five Rand), including VAT.

The contract has experienced higher than initially anticipated expenditure as a result of a backlog of work that accumulated prior to award of the contract, high failure rates which are associated with aged infrastructure as well as extremely high rates of

vandalism and theft. The April 2022 flood disaster has served only to stretch the contract further. This has resulted in the inability to address critical mechanical and electrical repairs at wastewater pump stations and treatment works, which could possibly result in pollution of the receiving environment if left unattended. Therefore, it is proposed that the contract, be amended to increase the individual contractor's authority and to extend the contract by 12 months, taking the total contract term to 36 months.

It was indicated that with Contract WS7071 being an ad hoc contract, it is impossible to determine the full quantum of work required because it cannot be predicted which equipment will fail or become inoperable due to vandalism/theft. Therefore, the average monthly spends on both this contract and a 3-month emergency contract for the same services has been taken into account in order to provide an indication of the additional contract authority required, which includes Preliminary and General costs. The results of these calculations are shown in the table below:

Contractor (Operational Area)	Average monthly spend	Additional authority required until end of WS7071 24 months period (May 2023)	Additional authority required for additional 12 months	Total Additional Authority Required
Ecochem Pumps (North)	R1 055 552,38	R2 056 851,43	R12 666 628,55	R14 723 479,98
Klomac Engineering (Central)	R1 923 889,24	R3 538 626,47	R23 086 670,85	R26 625 297,32
Solethu Infrastructure (West)	R1 070 293,47	R268 781,69	R12 843 521,67	R12 574 739,98
Keineli Investments (South)	R1 055 526,02	R507 931,91	R12 666 312,22	R13 174 244,12
				<b>R67 097 761,40</b>

The remaining authority on WS7071 has been factored in the calculations above when determining the additional authority required. It is proposed to amend the contract scope of work to include capital refurbishment, upgrade and replacement of mechanical and electrical equipment, as and when required. This amendment is required to address total replacement of equipment due to vandalism, theft, and when equipment becomes unfeasible to repair. The amendment will also allow equipment or facilities to be upgraded to address current system demands and modernization requirements.

It is proposed that the following clause is added to the Contract document to enable the variation:

***“PS.3.14 CAPITAL REPLACEMENT/REFURBISHMENT***

During the course of normal operation, the replacement or upgrade of equipment is inevitable due to various reasons, which may include, inter alia, equipment being beyond economic repairs, upgrade of facilities to new technology, natural disasters and vandalism or theft. In addition, the execution of new capital installations and equipment that is not related to the replacement or upgrade of existing equipment is also included. In such cases, the Employer's Agent and Contractor will jointly draw up the scope of work, hold a compulsory site meeting with prospective sub-contractors, agree on a time and date for submission of tenders, evaluate tenders and award the work to the most responsive tenderer.”

Contract details:

Contract No.:	WS7071
Start Date:	04 May 2021
End Date:	03 May 2023 (24 months)
Original Contract Authority:	Total: R 63 000 000 R 15 750 000 per Contractor
Minor Amendment (approved by CM, Annexure B)	Total: R 72 450 000 15% increase: R 18 112 500 per Contractor
Proposed additional contract authority	Total: R 45 700 000 Ecochem: R 13 000 000 Klomag: R 14 000 000 Solethu: R 8 200 000 Keineli: R 10 500 000
Percentage of the proposed additional contract value against original contract value	Total: 72.54% Ecochem: 82.54 % Klomag: 88.89 % Solethu: 52.06% Keineli: 66.67%

\*Note: all values listed above exclude VAT.

The financial implications are as follows:

Contractor	Current Contract Authority (Excl. VAT)	Additional Contract Authority Proposed (Excl. VAT)	Total Contract Authority (Excl. VAT)	Total Contract Authority (Incl. VAT at 15%)
Ecochem Pumps	R 18 112 500,00	R 13 000 000,00	R31 112 500,00	R 35 779 375,00
Klomag Engineering	R 18 112 500,00	R 14 000 000,00	R32 112 500,00	R 36 929 375,00
Solethu Infrastructure Projects	R 18 112 500,00	R 8 200 000,00	R26 312 500,00	R 30 259 375,00
Keineli Investments	R 18 112 500,00	R 10 500 000,00	R28 612 500,00	R 32 904 375,00
<b>TOTAL CONTRACT AUTHORITY</b>	<b>R 72 450 000,00</b>	<b>R 45 700 000,00</b>	<b>R118 150 000,00</b>	<b>R 135 872 500,00</b>

FY	BU	Item	Fund	Costin	Project	Reg	Amount	Committe	Available
23/24	Vario us	1156 0	1140 0	0000	93013	001 0	R21 410 000	-	R 21 410 000
<b>Total</b>									<b>R 21 410 000</b>

Funding has been provisioned as follows:

The additional budget has been requested in the MTREF (R59.84m in total), which is subject to approval. Work will only be undertaken up to the value of the available budget, in terms of the contracted rates as this is an ad hoc contract. Therefore, if no savings are identified in the 2022/2023 financial year, the effective date of new work being undertaken will be from 01 July 2023 in terms of budget provision at that time.

With the Committee being in agreement,

COMMITTEE RECOMMENDS:

- 3.8.1 That the Committee notes the proposed major amendment to contract WS7071, framework contracting of the mechanical/electrical servicing, AD Hoc repair, and refurbishment function: wastewater pump stations (SPS)/ Water Treatment Works (WWTW) / Miscellaneous Plant as follows that:
  - 3.8.1.1 The contract authority for Ecochem Pumps (Pty) Limited to be increased to R35 779 375 9 (Thirty-Five Million Seven Hundred and Seventy-Nine Thousand and Three Hundred and Seventy-Five Rands) (Incl. VAT).
  - 3.8.1.2 The contract authority for Klomac Engineering (Pty) Limited to be increased to R36 929 375 (Thirty-Six Million Nine Hundred and Twenty-Nine Thousand and Three Hundred and Seventy-Five Rand) (Incl. VAT).
  - 3.8.1.3 The contract authority for Solethu Infrastructure Projects (Pty) Limited to be increased to R30 259 375.00 (Thirty Million Two Hundred and Fifty-Nine Thousand Three Hundred and Seventy-Five Rand) (Incl. VAT).
  - 3.8.1.4 The contract authority for Keineli investments cc to be increase to R32 904 375.00 (Thirty-two Million Nine Hundred and Four Thousand Three Hundred and Seventy-Five Rand only) (Incl VAT).
- 3.8.2 That it be noted the contract is being amended for the following reasons:
  - 3.8.2.1 The contract has experienced higher than initially anticipated expenditure as a result of backlog of work that accumulated prior to the award of the contract.
  - 3.8.2.2 High failure rates which associated with aged infrastructure as well as extremely high rates of vandalism and theft.
  - 3.8.2.3 The April 2022 flood disaster has served only to stretch the contract further. This has resulted in the inability to address critical mechanical and electrical repairs at wastewater pump stations and treatment works, which could possibly result in pollution of the receiving environment if left unattended.
- 3.8.3 That the overall contract duration is to be extended by twelve (12) months to a total of 36 months.
- 3.8.4 That the work of a capital nature is to be included in the scope of the contract.
- 3.8.5 That Committee note that no comments or public views were received to the notice of the proposed amendment which was published.

**In noting the report, some Councillors expressed concern and indicated that the contracts to be extended contained huge amounts and there were of the view that authority was ought to be sought in the first instance. While there was also a view that some of the Municipal water functions could be undertaken in-house and for the Engineers to be capacitated.**

Thereafter some members were not in support of the recommendations; therefore, the matter was put to the vote. With 170 Councillors present, 153 Councillors (ANC - 82, DA – 45, IFP -14; ABC – 01; Action SA -02, ACC - 01, ACDP – 02; DLC – 00; ADEC – 00; APF – 00; AIC- 00; ATM -00; ALJAMAH – 00; JEP -01; KZNI – 01, MF – 00, MOSA- 00; NFP - 01; PRM – 01; PFP – 00; TA- 00; UIM – 01 and VF Plus – 01) voted in favour of the recommendations and 17 EFF Councillors voted against the matter. There were no abstentions recorded.

The above recommendations were, by the majority vote, **ADOPTED.**

3.9

Noting Report in Terms of Section 116 (3) of the Local Government Municipal Finance Management Act for Contract Amendment Provision of Civic Engineering Services at Ntuzuma D Phase 2 and Phase 3 Housing Projects for the Contract No.: 1H-42975 (22/71/1/3):

(Page 650: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

The purpose of this report is to seek approval from The Executive Committee of the eThekweni Municipality in terms of Section 116(3) of the Local Government Municipal Finance Management Act to extend the contract duration (without financial implication).

#### **Background**

- a) On 09 December 2019, after following a Regulation 36(1)(a)(v) application, Contract was awarded to LA Consulting Engineers (Pty) Ltd (See Annexure A).
- b) The Period of Performance was extended from the 09 December 2022 to 08 July 2023 via BAC Approval on 26 October 2021 (See Annexure B)
- c) On the 2 November 2018 Contract No. 1H-36012 was awarded to WK Construction South Africa (Pty) Ltd and officially commenced on 07 January 2019 and the Original Practical Completion date being 08 April 2022 (See Annexure C).
- d) The Practical Completions date was extended to 18 August 2023 via BAC Approval on 19 April 2021 (See Annexure D) and is anticipated that in the closing stages of the construction works, there is likely to be additional claims that will require consideration by the Employer.
- e) In terms of the Construction Regulations of 2014 and General Conditions of Contract (GCC 2015) 3<sup>rd</sup> Edition, LA Consulting Engineers (Pty) Ltd performs the function of Designer and Employer's Agent respectively.
- f) It is the intention of the Line Department to amend LA Consulting Engineers (Pty) Ltd's appointment to align it with the construction appointment (1H-36012), including an allowance for additional possible claims, to ensure there is sufficient oversight and accountability of engineered designs during the project's implementation.

#### **Cost Motivation for Applicability of Section 116(3)**

- a) The extension of the contract duration does not have any financial implication to the existing contractual authority.
- c) Contract Authority Summary:

1	Awarded Value (1H-42975 – Regulation 36(1)(a)(v)	R4 638 194.69
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2	Previous Appointment Funding Balance (1H-3258)	R 31 624.41
3	Total Contract Authority	R4 669 819.10
4	Expenditure to Date (23 January 2023)	R2 531 201.32
5	Remaining Contract Authority	R2 138 617.78

- c) The additional duration extension required, eleven (11) Months, shall allow LA Consulting Engineers (Pty) Ltd to not only perform their duties to the current Practical Completion Date of Contract 1H-36012, but also takes into consideration further possible claims that may be lodged under Contract 1H-36012 as well as allow LA Consulting Engineers (Pty) Ltd to conclude the delivery of As-Built data to all Service Departments for the capitalisation of assets.

**Consequences of not approving this request**

- a) The Professional Service Provider would not be able to continue to perform their duties, as Designer and Employer's Agent in terms of the applicable regulations and form of contract.
- b) The works under implementation would proceed un-managed on site and allow for the possibility of reduced quality outcomes, delay claims and increased costs. LA Consulting's appointment and provision of on-site personnel are there to monitor, manage and approve satisfactory works on behalf of the Employer, eThekweni Municipality.

With the Committee being in agreement,

**COMMITTEE RECOMMENDS:**

- 3.9.1 That noting report in terms of Section 116 (3) of the Local Government Municipal Finance Management Act to extend the contract duration of the Contract No.: 1H-42975 by a further eleven (11) months from the existing 08 July 2023 to 8 June 2024 without any financial implications to the existing contractual appointment.

- 3.9.2 That subject to the adoption of .1 above, the City Manager record the reasons for any deviations and report it to the next meeting of Council and include it as a note to the annual financial statements.

**ADOPTED.**

- 3.10 Noting Report in Terms of Section 116 (3) of the Local Government Municipal Financial Management Act (MFMA) For Contract Amendment Provision of Civil Engineering Services and Top Structures for Low-Cost Residential Development for the Namibia Stop 8 Housing Project-Phase 2 (22/7/1/1/3):  
(Page 660: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

The Committee received the report for noting in terms of Section 116(3) of the Local Government Municipal Finance Management Act to extend the contract duration (with financial implication).

**Background**

- a) In April 2018 eThekweni Municipality put out Contract No. 1H-37357 to tender, which covered the provision of civil engineering services for 311 new residential units.
- b) Following the tender evaluation process eThekweni Municipality awarded Contract No. 1H-37357 to the service provider on the (refer Annexure A)
- c) The Contract officially commenced on the 18 May 2019 with the Practical Completion date being the 17 May 2022 in accordance with the Conditions of Contract. An extension of time was granted with a revised completion date of 26 June 2023(refer Annexure B)
- d) Stage 3 Funding approval was received by the Department of Human Settlements on the 10 May 2022
- e) It is the intention of the Line Department to extend time and contract authority (1H-37357) to achieve the scope of construction work.
- f) Public notice to extend the scope and contract authority was advertised on the 9th December 2022 (Annexure C)

### **Extension of Time and Contract Authority Motivation for Applicability of Section 116(3)**

This project 1H-37357 has faced several external challenges affecting the ability of the Service Provider to perform and meet the project objectives as well as having influence on the Contractual Period under which the services were expected to be performed. Delays of up to twenty-four (24) months have occurred due to the service provider not having timeous access to the majority of the site; refusal of obstructing residents to relocate to the transit camp (until such time it was electrified); delay with funding approval from DOHS and consequent delay with NHBRC approval; and delayed finalisation of land tenure. All these delays are not the cause or responsibility of the service provider, who cannot be held liable in anyway.

Since the issue of the tender in April 2018, there has been a further influx of informal residents into the project area. This has caused the need for additional temporary residential units to accommodate families that have been moved to allow for new construction work. When the tender was awarded, an amount to cover escalation was not included and consequently the amount of R8 711 608.00 (Eight Million Seven Hundred and Eleven Thousand Six Hundred and eight Rand) including Vat has to date been paid out of the approved budget. This amount plus an allowance for future escalation needs to be provided for.

### **Cost Motivation for Applicability of Section 116(3)**

- a) In accordance with the conditions of contract, the service provider is entitled to additional time to complete the works, together with compensation of time related P & G costs.
- b) Whilst the tender document allowed for escalation in accordance with the Contract Price Adjustment Schedule (GCC 2015 - Page 86), no allowance for escalation was made in the contract authority. As a result, an amount of R8 711 607 (Variation Order prepared by the Engineering Consultant and



approved by the Client) has been paid to the contractor to date from the approved contract value. This has also caused a shortfall in the project budget. Further, an additional amount of R10 009 266.09 (Ten Million Nine Thousand Two Hundred and Sixty-Six Rand Nine Cent) is required for escalation on future work.

- c) The DOHS approval of the 2022 subsidy quantum (R141 294.00), as opposed to the 2014 subsidy quantum (R110 947.00), has further contributed to the need for additional funding for the housing work to be done in the future. This additional amount for 200 houses amounts to R6, 069 400,00.

### **Consequences of not approving this request**

- a) The Service Provider would not be able to continue to perform their duties, as the main Contractor in terms of the applicable regulations and form of contract.
- b) This could result in the installed services not being commissioned or accepted by the Line Departments as it would be deemed to be non-functional without being completed. Non-approval of the services would lead to the project being stalled.

### **Attempts to limit cost overruns.**

At regular meetings with the Municipality and Employer, the Consulting Engineers, the financial impact resulting from the delays to the service providers progress have been discussed and debated. The service provider's approach in their motivation and method of calculation for the extension of time was fair, equitable and justified. The unexpected delays to progress have caused an extension to the contract completion date and an increase in the project cost. The majority of the extra costs are for escalation and the service providers extended P & G. The influx of informal dwellings has caused the need for additional TRU'S

The delay in obtaining the necessary approvals for work to commence, in particular the land tenure, the DOHS funding and consequent NHBRC approval, has prevented the contractor from completing the works timeously. To ensure service delivery, acceptance of completed works by the relevant line departments, and prevent community protest action, it is essential to grant an extension of the contract period and increase of the contract budget

### **Existing Contract Authority and Additional requested:**

#### **A. Current contract Authority:**

	<b>Original Authority (A)</b>	<b>Contingency and Escalation (B)</b>	<b>Expenditure To date (C)</b>	<b>Remaining Authority (D=A+B-C)</b>
Total cost to Council	R86 949 373.76	0.00	R60 421 336.42	R26 528 037.00

The current contract period expires 26 June 2023

#### **B. Additional Authority Requested:**

	Remaining Authority (D)	Additional Authority (E)	Additional Authority (% of original) (E/A)	Total Authority Requested (E)
Total cost to Council	R26 528 037.00	R43 373 486.38	49.88%	R43 373 486.33

Note: All values are exclusive of VAT

The requested additional period is 18 months, taking the contract to 18 December 2024.

**ADDITIONAL FUNDING REQUESTED:**

To complete the remaining works at tendered rates:	R33 364 220.29
Escalation:	R10 009 266.09
Sub-total	R43 373 486.38
VAT	R 6 506 022.96
<b>Total</b>	<b>R49 879 509.00</b>

During discussion, members were advised that a tour of inspection for the Committee was held on the same day before the meeting with a view to understand the gaps and challenges facing the implementing of this project.

The EFF abstained at the Executive Committee level and with the other Parties being in support,

**COMMITTEE RECOMMENDS:**

- 3.10.1 That the Council of eThekweni Municipality notes the report in terms of Section 116 (3) of the Local Government Municipal Finance Management Act to extend the contract authority by R43 737 468.38 (Forty-Three Million Seven Hundred and Thirty-Seven Thousand Four Hundred and Sixty-Eight and Thirty-Eight Cent) (Excl. VAT) and contract duration of contract No.: 1H-37357 by a further eighteen (18) months up to the 18 December 2024.
- 3.10.2 That subject to the adoption of .1 above, the City Manager record the reasons for any deviations and report it to the next meeting of Council and include it as a note to the annual financial statements.

**Commenting on the matter, the EFF was not in support to note the reasons for proposed contract extension, citing that the housing project commenced in 2018, and to date there is no noticeable progress made. Adding that a one (01) year contract extension was already granted the previous year and, again in this instance another eighteen (18) months extension is being requested. On this basis, they dissented on the matter.**

**Thereafter, as some members were not in support to note the recommendations; the matter was put to the vote. With 170 Councillors present, 153 Councillors (ANC - 82, DA – 45, IFP -14; ABC – 01; Action SA -02, ACC - 01, ACDP – 02; DLC – 00; ADEC – 00; APF – 00; AIC- 00; ATM -00; ALJAMAH – 00; JEP -01; KZNI – 01, MF – 00, MOSA- 00; NFP - 01; PRM – 01; PFP – 00; TA- 00; UIM – 01 and VF Plus – 01) voted in favour of the recommendations and 17 EFF Councillors voted against the matter. There were no abstentions recorded.**

**The above recommendations were, by the majority vote, ADOPTED.**

- 3.11 Proposed Lease of Portion of the Central Durban Beachfront Property-Erven 11264 and 12281 All of Durban by Public Tender (17/2/1/2/5):  
(Page 670: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

The importance of drawing individuals to make use of the Land Distribution Strategy was emphasised at the Executive Committee level. With the DA abstaining on this matter and other Parties being in support,

COMMITTEE RECOMMENDS:

- 3.11.1 That the Municipal Council declares that in terms of Section 14 of the Local Government: Municipal Finance Management Act, No 56 of 2003 9 (MFMA) that:
- 3.11.1.1 The proposed property described as Erven 11265, 11265 and 12281 all of Durban situated at the Durban Central Beachfront in extent 7123m<sup>2</sup> as depicted on plan SH 9970 is not needed to provide the minimum level basic municipal services and is considered to be surplus to the requirements of the Municipality for the period that the proposed granting of rights to use, control or manage the said subject property is proposed and
- 3.11.1.2 The Municipality has considered the fair market value of the asset and the economic community value to be received in exchange for the asset. The current market value of the subject property is R7 645 000.00 at an assessed market rental of R1 238 065.00 (One Million Two Hundred and Thirty-Eight Thousand Sixty-Five Rand) per annum (R103 172.00 (One Hundred and Three Thousand One Hundred and Seventy-Two Rand) per month) Excl. VAT escalating by 7% per annum and reviewable every 5 years.
- 3.11.2 That the Council approves in principle that a right be granted to use, control or manage the capital asset described as Erven 11264, 11265 and 12281 all of Durban situated at the Durban Central Beachfront in extent 7123m<sup>2</sup> as depicted on plan SH 9897 in terms of Regulation 34 (1)(b) read with Regulation 36 and 41(1) of the Municipal Asset Transfer Regulations 2008 as follows that:
- 3.11.2.1 A long-term right is proposed to be granted in respect of erven 11264, 11265 and 12281 all of Durban situated at the Durban Central Beachfront in extent 7123m<sup>2</sup> as depicted on Plan No.: SH98967.
- 3.11.2.2 All conditions received from the relevant Municipal Units to respond to the proposed long-term lease will form part of the lease agreement to be concluded between the Municipality and the successful tenderer.
- 3.11.2.3 The property described as Erven 11264, 11265 and 12281 all of Durban situated on the Durban Central Beachfront in extent 7123m<sup>2</sup> as depicted on plan SH9970 be leased by way of public tender for a period of 45 years in accordance with eThekweni Municipality: Supply Chain Management Policy at a base rental of R1 238 064.00 per annum (R103 172.00 per month) excl VAT escalating by 7% per annum and reviewable every 5 years.

- 3.11.2.4 All costs incidental to the transaction shall be borne by the successful tenderer, and all the developmental plans must be submitted to the local authority prior to any construction.
- 3.11.2.5 The rental be suspended for the development period stipulated on the successful bidders proposal or until the practical completion certificate from the Development and Planning Unit is issued (whichever comes first) from the date of registration of the lease, to allow for the refurbishment/development of the property, provided that the development period or period until the practical completion certificate is issued does not exceed from the date of registration of the notarial lease and provided further that the capital investment is above R30 000 000.00 (Thirty Million Rand).
- 3.11.2.6 Should the developer not complete the development within a three-year period an application shall be made to the Head: Real Estate to submit a request to the Municipal Council to consider an extension of time without any further rental suspension to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 3.11.3 That subject to the adoption of .1 to .2.6 above and compliance with eThekweni Municipality: Supply Chain Management Policy and any other applicable legislation the Head: Real Estate be authorized to sign all documents necessary to conclude the required lease agreement.

**As some members were not in support of noting the recommendations; therefore, the matter was put to the vote. With 173 Councillors present, 126 Councillors (ANC - 83, EFF - 17, IFP -14; ABC – 01; Action SA -02, ACC - 01, ACDP – 02; DLC – 00; ADEC – 00; APF – 00; AIC- 00; ATM -01; ALJAMAH – 00; JEP -01; KZNI – 01, MF – 00, MOSA- 00; NFP - 01; PRM – 01; PFP – 00; TA- 00 and UIM – 01) voted in favour of the recommendations; 1 VF Plus Councillor voted against the matter and 46 DA Councillors abstained on the matter.**

**The above recommendations were, by the majority vote, **ADOPTED**.**

- 3.12 Proposed Granting of Rights to Use, Control or Manage a Municipal Asset Through a Lease on Site Sa 824 Over Remainder of Erf 10390 Durban, Located at 85 Anton Lembede Street as Depicted on Plan SJ725/1 (17/2/12/5):  
(Page 695: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

With Democratic Alliance abstaining on this matter, and other Parties present being in support,

COMMITTEE RECOMMENDS:

- 3.12.1 That the Council Declares in terms of Section 14 of the Local Government: Municipal Finance Management Act, No. 56 read together with Regulation 36(a) of the Municipal Asset Transfer Regulations that:
- 3.12.1.1 The proposed property described as Site 824 over remainder of Erf 10390 is not required to provide the minimum level of basic services and is surplus to municipal requirements for the envisaged period that the proposed granting of rights to use, control or manage the said property.

- 3.12.1.2 The current market value of proposed Site SA 824 over remainder of Erf 10390 of as depicted on SJ4725/1 in an extent of 1154 square metres is R8 000 000.00 (Eight Million Rand) at an assessed market rental of R640 000.00 (Six Hundred and Forty Thousand Rand) per annum and R53 333.00 (Fifty-Three Thousand and Thirty-Three Rand) per month has been considered and exclusive of VAT.
- 3.12.1.3 The Council approves that a right be granted to use, control or manage the capital asset described as proposed site 824 over remainder of 10390 Durban in an approximate extent of 1154 square metres as depicted on SJ 4725/1 in terms of regulation 34(1)(b) read to together with regulation 36 and 41 of the municipal asset transfer regulation 2008. It being recorded that after the lease period has lapsed, control of the property will revert to the Municipality.
- 3.12.1.4 A thirty 30-year lease be granted in respect of the capital asset.
- 3.12.1.5 All conditions received from the Municipality service delivery units detailed in will form part of the lease agreement to be included between the Municipality and the successful lessee.
- 3.12.1.6 That the property described as proposed site A 825 over remainder of Erf 10390 over remainder Durban in an approximate extent of 1154 square meters as depicted on SJ 4725/1 be leased in accordance with the supply chain management policy, at a base rental of R53 333.00 (Fifty-Three Thousand Three Hundred and Thirty-Three Rand) per month, exclusive of VAT escalating by 7% per annum and reviewable every five years for a period of 30 years.
- 3.12.1.7 The rental may be suspended for the refurbishment/development period stipulated on the prospective lessees proposal or until the practical completion certificate is issued (whichever comes first) from the date of registration of the lease to allow for the refurbishment/development of the property provided that the development period or period until the practical completion certificate is issued does not exceed 3 years from the date of registration of the lease and provided further that the capital investment is above R30 million. Should the developer not complete the development within a 3-year period an application can be made to the Head: Real Estate to submit a request to full council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 3.12.2 That the successful lessee sub-lets a portion of the building (approximately 1500-2000m<sup>2</sup> / 2 floors) to the Municipality's Business Support Unit. This requirement will be communicated as a condition throughout the applicable process and will be carried forward to the lease agreement.
- 3.12.3 That all cost incidental to the transaction shall be borne by the prospective lessee and all development plans are to be submitted for approval to any construction taking place.
- 3.12.4 That subject to the adoption of .1 and .3 above the Head: Real Estate be granted authority to give effect to the above-mentioned recommendations  
**DEFERRED, to a Special Meeting.**
- 3.13 Request for Authority to Transfer Funds to Project No. X7529: Construction of a 4,3 Km Long 600mm Diameter, Grade X42, 8mm Thick Continuously Welded Still

Water Rising Main from Hazelmere to Grange Reservoir in Wards 58 & 60  
(23/1/11/2/1/2):

(Page L72: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Authority is sought for the transfer funds in the amount of R4 000 000.00 (Four Million Rand) from savings identified in the Project No.: X8006 - Inlet to Adams Mission 6 to Project No.: X7529 Hazelmere to Grange Pipeline Project within the Water and Sanitation Unit for the 2022/2023 financial year.

The appeal and durability of the AC pipes has lost favour over the years due to the introduction of material that is proven more durable. Based on this, and in addressing the water service delivery backlogs, eThekweni has now opted for steel pipes with a wider diameter, which will see greater water volumes flowing between certain water treatment plants and reservoirs. As such, EWS has proposed the upgrading of the existing 375mmØ AC rising main between Hazelmere Water Treatment Works (WTW) to Grange Reservoir.

It is proposed that the existing 375 mm diameter (Ø) AC existing rising main be upgraded and re-routed by 4,3 km of 600 mm Ø, grade X42, 8 mm thick, continuously welded steel, cement mortar lined, 3-layer polyethylene (3LPE) coated steel inlet trunk main to Grange Reservoir via a pipeline corridor, situated along surrounding roads and within the existing pipeline servitude. The proposed upgraded rising main will have air valve chambers and scour valve chambers positioned at crest and troughs respectively.

The Hazelmere to Grange Project (X7529) has an approved budget of R25 000 000.00 (Twenty-Five Million Rand) for the current financial year (2022/2023). An additional R4 000 000.00 (Four Million Rand) for this financial year (2022/2023) is required. Savings have been identified from X8006 Inlet to Adams Mission 6 due to a delay in the letter of award and appeals lodged. The commencement of this contract is delayed to the following financial year.

- EWS is currently low on 600mm diameter steel pipes and thus additional funds are required under X7529 Hazelmere to grange pipeline in the 2022/2023 financial year to supplement a provisional sum allowed for the purchase of materials not available at EWS stores. A steep increase in the cost of steel pipes has also impacted the estimate allowed in the provisional sum.
- A significant increase in escalation has also resulted in additional funds being required in the 2022/2023 financial year.

With the Inkatha Freedom Party abstaining on this matter,

**COMMITTEE RECOMMENDS:**

- 3.13.1 That approval be granted for the transfer of funds in the amount of R4 000 000.00 from savings identified in the Project No.: X8006 - Inlet to Adams Mission 6 to Project No.: X7529 Hazelmere to Grange Pipeline Project within the Water and Sanitation Unit for the 2022/2023 financial year.
- 3.13.2 That authority be granted to the Deputy City Manager: Finance to include in the adjustments budget report, the transfer of funds from the project where savings have

been identified to the project as listed in the table below in the 2022/2023 financial year.

Hazelmere to Grange (X7529)	R4 000 000.00	To be met by vote Transfer 2022/2023 (Project X 8006)
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**Financial Implications:**

The table below shows the funding required for Hazelmere to Grange Pipeline (Project No. X7529) for 2022/2023 financial year and funds transferred from Inlet to Adams Mission 6 (Project No X8006). The total amount to be transferred over the 2022/2023 financial year is R4 000 000.00.

Project No	Description	Funding required in 2022/2023	Project No	Funding Provided from Project	Surplus Funding 2022/2023
X7529	Hazelmere to Grange	R4 000 000.00	X8006	Inlet to Adams Mission 6	R 4 000 000.00
	Total funds required in 2022/2023 financial year	R4 000 000.00		Total funds required in 2022/2023 financial year	R 4 000 000.00

FC No.: 364/C334

**ADOPTED.**

- 3.14 Authority to Transfer Funds to Various Projects Within the Wastewater Design Branch in the 2022/2023 Financial Year (23/1/11/2/1/2):  
(Page L73: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Authority is sought for the transfer funds in the amount of R2 225 000.00 (Two Million Two Hundred and Twenty-Five Thousand Rand) from savings identified in various projects within the Sanitation Capital Adjustment Budget to individual projects within the Water and Sanitation Unit for the 2022/2023 financial year.

The DA abstained at both the Support and Executive Committee levels. The IFP abstained on this matter at the Support Committee level, and other Parties being in support,

**COMMITTEE RECOMMENDS:**

- 3.14.1 That approval be granted for the transfer of funds in the amount of R2 225 000.00 (Two Million Two Hundred and Twenty-Five Thousand Rand) from savings identified in various projects within the Sanitation Capital Adjustment Budget to individual projects within the Water and Sanitation Unit for the 2022/2023 financial year as listed below:

(Y5220) Illovo Beach sewer reticulation (registration of servitude)	R85 000.00	To be met by vote transfer 2022/2023: - Project Y8743 (R85 000.00)
(Y5445) Waterloo transfer (registration of servitude)	R80 000.00	To be met by vote transfer 2022/2023: - Project Y8743 (R80 000.00)
(Y5580) Waterloo bulk sewer transfer scheme (registration of servitude)	R150 000.00	To be met by vote transfer 2022/2023: - Project Y8743 (R150 000.00)
(Y8142) Ntuzuma C sewer reticulation	R400 000.00	To be met by vote transfer 2022/2023: - Project Y8612 (R400 000.00)
(Y8147) Mangosuthu University of Technology	R38 000	To be met by vote transfer 2022/2023: - Project Y8743 (R38 000.00)

(Y8168) Kloof Masenga Road reticulation	R700 000.00	To be met by vote transfer 2022/2023: - Project Y7083 (R700 000.00)
(Y8699) Silverglen-sewer re-alignment	R50 000.00	To be met by vote transfer 2022/2023: - Project Y8743 (R50 000.00)
(Y8783) Inanda B Sinamuva Drive sewer	R100 000.00	To be met by vote transfer 2022/2023: - Project Y8612 (R100 000.00)
(Y8848) Kennedy RD Rising main Land acquisition	R50 000.00	To be met by vote transfer 2022/2023: - Project Y8743 (R50 000.00)
(Y9153) Umhlanga Ridge trunk sewer upgrades	R72 000.00	To be met by vote transfer 2022/2023: - Project Y8743 (R72 000.00)
(Y9250) Bridge City Sewer upgrades	R250 000.00	To be met by vote transfer 2022/2023: - Project Y8743 (R75 000.00) - Project Y7082 (175 000.00)
(Y8697) REM of ERF 149- No. 101 RK KHS	R250 000.00	To be met by vote transfer 2022/2023: - Project Y8754 (R250 000.00)
<b>TOTAL</b>	<b><u>R2 225 000.00</u></b>	

3.14.2 That subject to the adoption of .1 above, the Deputy City Manager: Finance be authorised to include in his adjustment budget report the transfer of funds from the projects where savings have been identified to the individual projects.

**A submission was made that funding be sourced in future to resuscitate projects which savings have been identified for use to undertake different other projects within the Sanitation Capital Adjustment Budget. It being noted that funding had to be spent to avoid the grant being recalled by the National Treasury.**

**Thereafter, the above recommendations were unanimously; ADOPTED.**

3.15 Request for Authority to Transfer Funds to Project No. X7542: Emona Reservoir - Construction of a 5ml Reinforced Concrete Reservoir, Rising Main, Pump Station Upgrade, Inlet & Outlet Pipework, Elevated Tank and Ancillary Works: Ward 61 & 62 (23/1/11/3/1):  
(Page L74: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Authority is sought for transfer of funds in the amount of R3 000 000.00 (Three Million Rand) from savings identified in Projects No.: X8006 Inlet to Adams Mission 6, and X8068 Adams 6 to Project X7542 Emona Reservoir Construction project within the Water and Sanitation Unit for the 2022/2023 financial year.

The DA abstained at both the Support and Executive Committee levels. The IFP abstained on this matter at the Support Committee level, and other Parties being in support,

**COMMITTEE RECOMMENDS:**

3.15.1 That approval be granted for the transfer of funds in the amount of R3 000 000.00 (Three Million Rand) from savings identified in Projects No.: X8006 Inlet to Adams Mission 6, and X8068 Adams 6 to Project X7542 Emona Reservoir Construction project within the Water and Sanitation Unit for the 2022/2023 financial year as indicated below:

Emona Reservoir (X7542)	R1 500 000	To be met by vote transfer 2022/2023 project x8006
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Emona Reservoir (x7542	R1 500 000	To be met by vote transfer 2022/2023 project x8068
<b>TOTAL</b>	<b>R3 000 000</b>	

- 3.15.2 That subject to adoption in .1 above, authority be granted to the Deputy City Manager: Finance to include in his adjustment budget report, the transfer of funds from the project where savings have been identified to the project in the 2022/2023 financial year.

**FC No.: 364/C340**

**A comment was submitted that the community of Adams Mission should not be forgotten as there is still a huge outcry of water supply in the area, as the budget allocation has been re-allocated to other project due to challenges.**

**Thereafter, the above recommendations were, unanimously; ADOPTED.**

- 3.16 Noting Report in Terms of Section 116 (3) of the Local Government: Municipal Finance Management Act 2003 for the Provision of Professional Engineering Services in Respect of the Durban Solid Waste Shongweni Landfill Site: Contract PSC 2015/010 (24/8/2/1/2):  
(Page L75: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

The Committee received the report for noting and consider the public regarding the proposed major amendment in terms section 55 of the Supply Chain Management Policy (amendment to contracts – MFMA Section 116(3) for an increase in contract authority and extension of contract period with of two (2) years in terms of Contract PSC 2015/010.

### **Motivation and Reasons for the Proposed Amendment**

The engineering brief required the satisfying of all waste management licence and environmental authorisation conditions. These included but was not limited to the Water Use Licence Application (WULA) and Biodiversity Offsets. Both specialist works had presented various challenges both in terms of complexity and administration of the applications with the relevant authorities. The co-ordination of all requirements to the satisfaction of the authorities and other stakeholders proved impractical to complete with new WULA processing system and work in progress amendments in the application process. Whilst efforts were made to contain and mitigate these activities being delayed, it was beyond the control of the professional team.

The introduction of the project to the local stakeholders by the traditional authority, councillor and ward committee was further not well received. Various efforts were made to resolve the impasse including that of appointing a specialist facilitator to unblock the community concerns proved fruitless. It was understood that the traditional leadership were unhappy regarding the city's approach in expropriating the land and had not satisfied necessary cultural traditions. Other concerns were attributed to the city enforcing land invasion controls which resulted in the project team escalating the matter to the leadership of the city for intervention.

The programme's detailed design required a geotechnical report to inform final design and bill of quantities for tendering. This activity was unfortunately stopped by the local business forums and councillor with teams threatened off site. The project team

reported the challenge to the office of the Mayor and also took steps to engage the councillor and the business forum through the Facilitator however, it was understood that the project could not proceed without the local Inkosi being addressed by the City Manager and Mayor for the project to proceed.

CSW sought to escalate the matter on several occasions with the city leadership for support. The risks of the project were further raised at the city's capital management committee meeting and to the Human Settlements and Infrastructure leadership.

The Chairperson of the Human Settlements and Infrastructure Committee had intervened on the matter in directing a Specialist Facilitator to deal with the issues of concern. Such engagements have revealed that a portion of the bufferzone must be directed to the Inkosi for a Royal Homestead and land provided in the south of the site for cattle grazing etc. in order for the project to be supported and go ahead. This resulted in clearance then been given for the geotechnical assessment that was initially stopped to be re-engaged. A Waste Management Licence Variation application has been issued to the competent authority for processing the land set-aside for the Inkosi and cattle grazing request. Real Estate has further obtained Council approval for the land to be set-aside and pending the waste management licence variation approval.

The first phase of the Western Waste Management Facility was tendered under Enquiry WS7411 in December 2022 and approved at Bid Adjudication Committee pending issuance of a letter of award. CSW has evaluated the delay impact and therefore requires a 24-month (2years) extension of the existing professional services arising from the delays beyond the control of the Unit. The extension is critical to ensure the detail design can be finalised, works tendered and the contract supervision can be completed as originally planned in this scope.

The construction estimates used on the capital programme were based on the concept designs at the EIA stage done by the scoping engineers however the construction estimates now being received are higher than originally forecasted. Some of the increase in construction costs relate to the delay mentioned above. This presents the challenge of not being able to ensure the "full" site development can be achieved as the professional engineering services contract value is linked to the value we can tender for the construction project. CSW has evaluated the increase in contract authority and this amounts to an addition of 84% to the original contract authority. The factors attributed to the increase in contract value are due to:

- Time delays arising from Initial authority deals in receiving the environmental authorization and waste management license from the competent authorities mainly attributed to abnormal appeals received. This delayed in getting rights to the land detailed design works.
- When the land was finally expropriated – specialist studies as informed by the environmental authorization and waste management license required biodiversity and water use licenses. Various challenges both in terms of complexity and administration of the applications with the relevant authorities. The co-ordination of all requirements to the satisfaction of the authorities and other stakeholders proved impractical to complete with new WULA processing system which also added delays.
- Works were stopped by Inkosi / councillor and geotechnical works could not be done to inform the detail design of the site and added to the time delays.
- The complexities with the site engineering arising from the biodiversity requirements and water use license has increased the cost of the construction

which was not envisaged initially. A revised site development layout includes realignment of the MR461 and hard material increases in the earthworks which was not reasonably known at scoping stage.

- the construction estimates used on the capital programme were based on the concept designs at the EIA stage done by the scoping engineers however the construction estimates now being received are higher than originally forecasted.
- The cost of construction estimate is higher than the pre-pandemic levels.

The new Shongweni Landfill Site will play a pivotal role for eThekweni Municipality in that waste from the western catchment will be disposed at this site. With the downsizing of the Mariannhill Landfill Site in February 2020, the operating costs has increased by more than 30% in transporting the waste from the western catchment to the Buffelsdraai Landfill Site in the north. Not securing the professional services to implement the first phase of the development will continue to increase costs to the ratepayer.

The construction phase of the development is imminently awaiting a letter of award. The professional services expire on 30<sup>th</sup> June 2023, and it is impractical to officially handover the construction work without having the professional services for the construction supervision and monitoring in accordance with the design. Commencing the construction phase without securing the continuity of the consultant that undertook the detailed design and carries the professional liability for the complex and specialist nature of the works will result in major risks to the city. Should a new professional service provider be procured through a new tender, then it will cost the city more in terms of redesign work as the consultants will have to accept all professional liability for the works. Moreover, this is not favourable as it would mean that the city will have to pay twice for the design as well the increased operating cost arising from the delay in retendering the professional services. This amendment in the Professional Engineering Services Contract will result in being able to construct a facility that can be immediately operational.

### **Public Participation**

A public advert in terms of section 116(3) (b)(i)&(ii) of the Local Government Municipal Finance Management Act was placed in the Metro Ezasegagasini on the 07<sup>th</sup> April 2023 and closed on 12 May 2023 inviting written comments/representations/objections and grounds in respect of 116 (3) of the MFMA. No responses were received and is interpreted from no responses implies there are no objections for the proposed major amendment. The public participation process undertaken to invite public comments of the intention to amend the contract duration i.e. an extension and increase the value the contract has resulted in no objection to the proposed major amendment.

It is proposed that the contract value for this Professional Engineering Services Contract be increased by R6,314,560.00 excl. Vat from R7,456,000.00 excl. VAT to R13,770,560.00 excl. Vat and the contract extended by 2 years. An amount of R1,251,869.09 excl. Vat is to cater for escalation that was previously omitted.

This will benefit the municipality with a cost savings of approximately 30% on the operating expenditure in transporting the waste from the western catchment to this landfill instead of the Buffelsdraai Landfill Site in the north.

With the Democratic Alliance abstaining on this matter, and other Parties present being in support,

**COMMITTEE RECOMMENDS:**

- 3.16.1 That Council notes the reasons to amend Contract PSC 2015-010, in terms of Section 116(3) of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003, for the Provision of Professional Engineering Services in Respect of the DSW Shongweni Landfill Site, due to the following reasons:
- (i) Time delays arising from Initial authority deals in receiving the environmental authorization and waste management license from the competent authorities mainly attributed to abnormal appeals received.
  - (ii) Works were stopped by inkosi / business forums and geotechnical works could not be done to inform the detail design of the site and added to the time delays.
  - (iii) The complexities with the site engineering arising from the biodiversity requirements and water use license has increased the cost of the construction which was not envisaged initially. A revised site development layout includes realignment of the MR461 and hard material increases in the earthworks which was not reasonably known at scoping stage.
  - (iv) The construction estimates used on the capital programme were based on the concept designs at the EIA stage done by the scoping engineers however the construction estimates now being received are higher than originally forecasted.
  - (v) The cost of construction estimate is higher than the pre-pandemic levels.
- 3.16.2 That Council notes the public participation process advertised through the media, in terms of Section 116(3) of the MFMA, as part of achieving compliance requirements pertaining to the public participation process to invite public comments on the proposed contract amendment and that no objections were received.
- 3.16.3 That the outcome of the public participation process referred to in .2 above will be submitted to the Municipal Council for noting purposes.

**Financial Implications:**

The financial implications for contract PSC 2015-010 for the Provision of Professional Engineering Services in Respect of The DSW Shongweni Landfill Site to IX Engineers Pty Ltd JV Wilson and Pass Inc are an increase of R6,314,560.00 excl. VAT from R7,456,000.00 excl. VAT to R13,770,560.00 excl. Vat with an amount of R 1,251,869.09 excl. Vat for escalation.

Vote No	Financial Year	Provision	Proposed Expenditure
WSH03E	2022/2023	R 10,658,000.00	R 5,000,000.00
	2023/2024	R 85,133,000.00	R 4,568,151.81
	2024/2025	R112,900,000.00	R 3,088,926.10

FC No.: 366/C114

**ADOPTED.**

- 3.17 Reprioritisation of USDG Capex Budget from Road Provision Department to Roads and Stormwater Maintenance Department for the 2022/2023 as well as Request for an Additional Budget for 2023/2024 for the Upgrading of Roads Through Low Volume Gravel Roads Upgrade Programme (7/1/2/2):  
(Page L76: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

The Committee received the report for an additional funding of the Roads and Stormwater Maintenance (RSWM) Department's Low Volume Gravel Roads Upgrade Programme (LVGRUP). The unpaved road network at eThekweni Municipality is approximately 1746 kilometers. The Low Volume Gravel Road Upgrade Programme was initiated by the Department in the 2014/15 financial year and is implemented in the three (3) outer regions of RSWM: South, West, and North. The programme aims to upgrade the unpaved road network in informal areas to blacktop surfaces. To date, approximately 271km of the unpaved road network has been upgraded with a rate of approximately R2 500 000 to R3 000 000 per kilometer; however, the rate of progress in terms of implementation has declined due to budget cuts and reprioritisation brought by the 2020/21 COVID-19 pandemic, April 2022 flood disaster, and July 2022 looting.

#### **EXISTING LVGRUP CONTRACTS AND MTREF-APPROVED BUDGET:**

LVGRUP's budget for the current financial year of 2022/2023 was reprioritised. The funding was used to repair roads and stormwater infrastructure due to damages caused by the flood disaster in April 2022.

Table 1 below shows the current expenditure and available contract authority for all three (3) regions. The due completion date for South and West regions contracts is 12 May 2024, and it must be noted that there is still enough authority to absorb additional budget in 2022/2023 & 2023/24 financial years.

**Table 1.** Existing LVGRUP contracts information.

Contract Number	Region	Contract Value	Payments to date	Retention	Available contract authority	Due Completion Date
1M-41401	West	R114,752,834.78	R68,505,363.66	R4,314,000.00	<b>R41,933,471.12</b>	<b>12 May 2024</b>
1M-41400	North	R71,561,426.09	R66,505,942.12	R2,338,608.70	<b>R2,716,875.27</b>	<b>Complete</b>
1M -41399	South	R81,851,025.78	R29,397,175.62	R3,077,106.23	<b>R49,376,743.93</b>	<b>12 May 2024</b>

The roads to be upgraded are identified through consultations with ward councillors. The current list of roads was approved by the council in 2020. Due to the budget cuts, the Department is experiencing backlogs on the ground as meeting the set targets is a challenge with the insufficient budget. The scope of works for the contracts during tender stages considers the backlogs on the ground and the high available contract authority evident in Table 1, with only one year left to the due completion date, is due to the budget cuts and reprioritisation of the budget. Roads to be implemented in the 2022/2023 financial year

#### **Financial Implications:**

The required budget for the 2022/2023 and 2023/2024 Financial years is shown below:

#### **2022/2023 Financial Year**

Region	Ward Numbers	Additional funding
South	93, 94, 95 & 67	R10 000 000
West	103, 7, and 5	R13 000 000

#### **2023/2024 Financial Year**

Region	Approved budget	Additional funding	Ward number
LVGRUP	R22 000 000	R36 000 000	1, 2,4, 7, 72, 84, 94, 95, 96, 98, 105 and 109

In 2023/2024, the Council might be subjected to standing time claims from Contractors; it is critical that the Council identifies such risks and put interventions in place to mitigate them. The available budget must be increased to fully cater to the two regions (South and West).

With the Democratic Alliance abstaining on this matter,

**COMMITTEE RECOMMENDS:**

- 3.17.1 That authority be granted for an additional budget in the amount of R23 000 000.00 (Twenty-Three Million Rand) for the 2022/2023 financial year for the South and West Regions Low Volume Gravel Roads Upgrade programme.
- 3.17.2 That an additional amount of R36 000 000 (Thirty-Six Million Rand) for the 2023/2024 financial year be explored to avoid claims from the existing Contractors.

**ADOPTED.**

**4. DIRECT EXCO REPORTS**

**4.1 2023/2024 AUDIT COMMITTEE AND INTERNAL AUDIT CHARTERS**  
(Page 1)

As per the statutory requirements, the existing Audit Committee Charter is reviewed on an annual basis. The Charter serves as the Terms of Reference of the Committee and thus outlines the role of the Committee in pursuit of its role as informed by Section 166 of the Local Government: Municipal Finance Management Act No. 56 of 2003. The Internal Audit Unit Charter is submitted for noting purposes, as this serves as internal regulatory framework in terms of outlining roles and responsibilities by the parties involved in the internal audit processes.

It should be noted that there have been no major changes to the Charters since the Auditor's professional guidelines and legislations still remain the same. The documents are then submitted to achieve the necessary compliance requirements.

Accordingly,

**COMMITTEE RECOMMENDS:**

- 4.1.1 That Council approves the reviewed Audit Committee Charter for the 2023-24 financial year, it being recorded that there have been no major changes effected since the Auditor's professional guidelines and legislations still remain the same, and with the Charter being reviewed as per the requirements in terms of Section 166 of the Municipal Finance Management Act No. 56 of 2003, Section 45 of the Local Government: Municipal Systems Act No. 32 of 2000, National Treasury MFMA Circular No. 65, whereby the Audit Committee Charter require an annual review and update to ensure relevance and consistency with the MFMA, Municipal Systems Act (No.32 of 2000) and the other related regulations, guides and best practice, it being

recorded that the Charter is attached to the Report by the Chief Audit Executive dated 22 May 2023.

- 4.1.2 That Council notes the reviewed Internal Audit Unit Charter for the 2023-24 financial year, which review has also been informed by the legislative prescripts cited in .1 above, it being recorded that the Charter is attached to the Report by the Chief Audit Executive dated 22 May 2023.

**DEFERRED, to a Special Meeting.**

- 4.2 REQUEST FOR APPROVAL TO REPRIORITIZE THE 2022/2023 APPROVED CAPITAL BUDGET TO FUND PROJECTS WITH CONTRACTUAL COMMITMENTS INCLUDING STORM DAMAGES PROJECT AND PROCUREMENT OF PARKS AND CEMETERIES WITHIN THE PARKS, RECREATION AND CULTURE UNIT

(Page 110)

The Parks, Recreation and Culture (PRC) Unit has identified projects within its capital budget where cash flows have changed and thus savings declared. Authority is sought to reprioritize such funds to clear the backlog as a result of storm damages and beef up insufficient funding to address the Tractor Replacement Programme.

It being noted that the PRC was allocated insufficient budget to address the service delivery needs across the Municipality, with the DA abstaining and the other Political Parties present being in support,

**COMMITTEE RECOMMENDS:**

- 4.2.1 That additional authority be granted for the Head: Parks, Recreation and Culture to proceed with the implementation and completion of the Storm Damages Projects needing additional funding in 2022/2023 in the amount of R2 075 000.00 (Two Million and Seventy-Five Thousand Rand).
- 4.2.2 That, subject to the adoption of .1 above, authority be granted for the budget transfer of R2 075 000.00 (Two Million and Seventy-Five Thousand Rand), it being recorded that this will be reported under the 2022-23 adjustments budget report of the Deputy City Manager: Finance.
- 4.2.3 That additional authority be granted for the Parks, Leisure and Cemeteries Unit to proceed with the procurement of Tractors using the National Treasury Contract RT-57, and thus a request for additional funding of R14 000 000.00 (Fourteen Million Rand only) in the 2022-23 financial year.
- 4.2.4 That subject to the adoption of .3 above, the budget transfer of R14 000 000 (Fourteen Million Rand) be reported by the Deputy City Manager: Finance in his 2022-23 adjustment budget report.

**FC No.: 37/788**

Table 1, and associated Budgets:

Table 1: Storm damages projects that are work in progress (WIP) requiring Capital Budget to ensure completion by 30 June 2023 and additional funding for procurement of tractors.

Projects Requiring Funds					Funded From			
Description	Scope of Works	Ward No	Amount R	Reasons	Description	Ward No	Amount R	Reasons
V Moonsamy Hall – Storm Damage (N2787S1)	Storm Damages	62	375 000	Requires additional funding	Worse conditions Asset Beach (N1651)	26	16 075 000	Project deferred at BAC stage. Implementation in the next financial year
Belvedere Hall – Storm Damages (2786S1)	Storm Damages	62	125 000	Requires additional funding				
Firwood Library - Storm Damages (N2765S)	Storm Damages	34	500 000	Requires additional funding				
Stonebridge Library - Storm Damages (N2776S1)	Storm Damages	48	400 000	Requires additional funding				
Truro Depot – Storm Damages (N2767S)	Storm Damages	32	355 000	Requires additional funding				
Cato Crest Library (N2763S)	Storm Damages	101	320 000	Requires additional funding				
Heavy and Mobile Plant (PC8800)	Tractors	City Wide	14 000 00	Requires additional funding				
			<b>16 075 000</b>				<b>16 075 000</b>	

**ADOPTED.**

4.3 APPROVAL OF FINAL ETHEKWINI MUNICIPALITY 2023/2024 INTEGRATED DEVELOPMENT PLAN (2/1/6/1)

(Page 121)

Following a successful stakeholder consultation of the draft 2023-24 Integrated Development Plan (IDP), as per the Council decision of March 2023, the final draft IDP is submitted for final approval. The IDP is developed as prescribed by the Local Government: Municipal Systems Act No 32 of 2000. The 2023/24 IDP has undergone extensive assessment by the MEC: Cooperate Governance and Traditional Affairs and other National Department as part of an intensive benchmarking exercise facilitated by the National Treasury. The eThekweni Municipality's IDP has been declared fully aligned with the 2023-24 budget.

The IDP also incorporates comments from various stakeholders and, in terms of assessment, the leading comments relates to poor service delivery across all sectors of government and also the impact of load shedding to the economy and quality of life. Some of the concerns raised during the public participation process require long-term solutions and should be addressed over the three (03) year Medium Term Revenue and



Expenditure Framework (MTREF). Where short-term solutions are applicable these would be implemented, monitored and reported accordingly.

Accordingly

COMMITTEE RECOMMENDS:

- 4.3.1 That Council adopts the 2023/2024 Integrated Development Plan (IDP) of the eThekweni Municipality, as circulated separately, and reviewed in line with the requirements of the Local Government: Municipal Systems Act No. 32 of 2000 to facilitate inclusive transformational and developmental issues within the eThekweni Municipal area, it being recorded that input received from stakeholders have been taken into account in finalizing the IDP.
- 4.3.2 That Council notes that the final adopted IDP will be submitted to the KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs, as per the statutory requirement.

**ADOPTED.**

4.4 REQUEST FOR ADDITIONAL BUDGET FOR THE PROCUREMENT OF ORACLE ERP JDE EXPANSION LICENSES

(Page 125)

Authority is sought for the approval of additional funding for the procurement of Oracle ERP JDE Expansion Licenses. The eThekweni Municipality is currently utilizing an Oracle JD Edwards ERP system licensed under this enterprise \$M in Operating Budget Licensing Metric. The City is required to conduct an annual expansion of licenses to determine the number of additional licenses required based on the operational budget. In this regard, the City has not been compliant, having last conducted this exercise in 2014. For the City to be compliant, a total of three thousand one hundred and fifty (3 150) additional licenses are needed to complement the two thousand and ninety-four (2 094) existing licenses.

The Unit is also responding to a finding by the Auditor-General in terms of updating software licenses. Thus, there is a potential repeat finding if this is not resolved. Also, putting the Municipality at risk of the Oracle License Management Service (LMS) team conducting a full Oracle licensing audit and to receive a fine if find not to be compliant.

The table below reflects summarised cost of the expansion licenses required to bring the licensing gap into compliance.

JDE Enterprise License Expansion	R23 006 438.61
Migration of JDE One View Licenses	R3 677 422.98
Combined 1 <sup>st</sup> Year support	R6 089 384.89
VAT	R4 912 881.24
<b>TOTAL</b>	<b>R37 686 127.71</b>

Based on a question raised with regard to the challenges reported by the Electricity Unit with regard to accessing the JDE system, it was advised that the matter will be looked into as there is an internal existing Team responsible for supporting the Municipal Units. With regard to a further query whether this license procurement will address all challenges, it was advised that JDE was not being phased out currently as the RMS is currently not MSCOA compliant, but that these will be addressed as per the commitment in terms of the MSCOA roadmap.

With the Committee understanding the importance of achieving the necessary compliance requirements with regard the software licences,

**COMMITTEE RECOMMENDS:**

- 4.4.1 That project authority be granted by approving the procurement of Oracle JDE Expansion Licenses, as part of the license compliance exercise requirements at an estimated value of R37 686 121.71 (Thirty-Seven Million Six Hundred and Eighty-Six Thousand One Hundred and Twenty-One Rand Seventy-One Cents), including VAT and to be funded from the 2022/2023 financial year savings.
- 4.4.2 That authority be granted for the Deputy City Manager: Finance to identify savings and include in the report of the final adjustment budget.

**Financial Authority:**

The required budget for the current financial year for the Oracle Expansion Licenses is estimated at R37 686 121.71 inclusive of VAT. Financial provision has not been made for this procurement. Procurement to be made through savings that will be identified during the current financial year 2022/2023.

**ADOPTED.**

4.5 **REQUEST FOR BUDGET APPROVAL FOR THE PROCUREMENT OF VEHICLES FOR VARIOUS DEPARTMENTS**

(Page 143)

A need exists for the City Fleet Unit to facilitate procurement of additional vehicles for the Parks, Recreation & Culture and Metro Police Units, it being mentioned that the vehicles would not be limited to the aforementioned Units. Cognisance being taken that vehicles form part of the crucial resources for daily operations and meet service delivery demands. It was reported that the current fleet has exceeded its lifespan and due for replacement

It was advised that, historically, there has been insufficient funding to address the vehicle replacement programme due to competing budgetary requirement for the City's projects and service delivery mandates following budget reprioritizations to address critical elements.

During discussions, the ANC, NFP, EFF and the IFP supported the item. However, there were areas of concern raised including lack of update on the status of purchasing, usage and replacing the City fleet. Also, that consideration be given to insourcing the vehicle maintenance services and upskill internal resources for this purpose. That the once existing internal Municipal workshops be revived for this purpose.

On the other hand, the Committee emphasized the significance of utilizing local-based companies to purchase vehicles thereby boosting local economy.

Also, a need to revise the Asset Management Strategy to keep track of the vehicle usages and availability. Given issues raised, a recommendation was submitted and agreed to that a dedicated workshop be convened to unpack the overall City fleet issues within the Municipality.

While abstaining on the matter, the DA also cited the importance of planning the procurement of fleet to meet the service delivery demands.

Thereafter, Management confirmed that the City is currently working on addressing backlog on fleet replacement and that provision has been made on the 2023/24 MTREF. However, that a need also exists to commence with this process prior to the end of the current financial year.

Accordingly, with the majority of the other Political Parties present

**COMMITTEE RECOMMENDS:**

- 4.5.1 That Council approves the procurement of vehicles for the Parks, Recreation and Culture and the Metro Police Units, as part of replacement requirements, at an estimated value of R210 000 000.00 (Two Hundred and Ten Million Rand), including, and to be funded from savings.
- 4.5.2 That authority be granted for the Deputy City Manager: Finance to identify savings and include in the report of the final adjustment budget.

**Prior to the adoption of the recommendations, a submission was made that the Municipality had to strengthen measures for proper control of Municipal assets. It being mentioned that there has been reports that Municipal vehicles were being lost.**

**Thereafter, the above recommendations of the Executive Committee were;  
ADOPTED.**

4.6 REVISED TERMS OF REFERENCE FOR GOVERNANCE AND HUMAN RESOURCES COMMITTEE

(Page 163)

The Executive Committee was advised of the need to revise Terms of Reference for the Governance and Human Resource Committee. This is aimed at formalizing the incorporation of the aspects relating to the standardization for naming and remaining of streets; roads; buildings; and monument within the jurisdiction of the eThekweni Municipality. The amendment is reflected as item (S) under the functions of the Committee in the Terms of Reference document.

With the Committee noting that this is a compliance requirement, accordingly

**COMMITTEE RECOMMENDS:**

- 4.6.1 That Council approves the amendment of the Governance and Human Resources Committee Terms of Reference by the addition of articles:

- (a) 2.3.2.1 (s):  
Standardization for naming and renaming of streets; roads; buildings; and monuments
- (b) 2.3.2.2 (m):  
To give effect to the objectives of the South African Geographic Names Council Act No. 118 of 1998 by:
  - (i) Identifying geographical features for possible naming and renaming
  - (ii) Assisting and advising the communities in identifying geographical names for possible standardization
  - (iii) Receiving and processing submission and applications from individual and organisations regarding the standardization of geographical names
  - (iv) Identifying monuments within eThekweni Municipality for possible naming and renaming;
  - (v) Conducting public participation programmes in which the proposed names or change name are discussed by the relevant stakeholders;
  - (vi) Ensuring that the standardization of geographical names and renaming takes place in line with the guidelines published by the KwaZulu-Natal Provincial Geographic Names Committee (KZNPGNC);
  - (vii) Conducting awareness activities about the programmes of standardizing geographical names or renaming and ensuring that the public is adequately informed about the processes and any new changes that may relate to the geographical names;
  - (viii) Preparing and submitting reports on a regular basis to the KwaZulu-Natal Provincial Geographic Names Committees and;
  - (xi) Interfacing with Development Planning, property developers and residents on the naming of any new settlements, streets, public spaces or any related geographical feature.

4.6.2 That authority be granted for the Deputy City Manager: Governance and Internal Relations to finalise the standardization for Naming and Renaming of Streets, Roads, Buildings and Monuments.

**DEFERRED to a Special Meeting.**

4.7 REQUEST FOR PROJECT AUTHORITY FOR ACCELERATED CAPITAL PROJECTS IN THE FINANCIAL YEAR 2022/2023 (7/1/2/1)

(Page L77)

Authority is sought for Council to grant project authority for projects that are ready for implementation during the 2022-23 financial year. The Council adopted the adjustments budget report in February 2023. Based on the review of the financial performance as at end April 2023, it has been discovered that there are projects delayed for various reasons and therefore will not be able to spend their full allocation.

In order to improve service delivery and ensure full expenditure of the capital budget, there are projects that are ready for implementation and thus in need of financial commitments. The projects in question are listed in the table contained in the recommendations below.

With the Committee supporting the acceleration of service delivery,

COMMITTEE RECOMMENDS:

- 4.7.1 That in accordance with the Local Government: Municipal Finance Management Act No. 56 of 2003, project authority in the amount of R2 500 000.00 (Two Million Five Hundred Thousand), be granted for accelerated capital projects listed in the table below and to be funded through savings declared in the current 2022-23 financial year.

Capital Budget Description	Departments	Proposed Budget 2022/2023 R	Total Budget Shortfall R
<b>Total Capital Budget</b>		<b>78 300 000.00</b>	<b>78 300 000.00</b>
Roads Rehabilitation	Engineering	10 000 000.00	10 000 000.00
Prepaid Meters	Electricity	35 000 000.00	35 000 000.00
Water Meters	Water	2 500 000.00	2 500 000.00
Bakery Containers	Business Support	2 700 000.00	2 700 000.00
Grounds	Parks, Recreation & Culture	25 000 000.00	25 000 000.00
Replacement of Toilets at Health HQ	Health	600 000.00	600 000.00
25 Containers (Soup Kitchens)	Community Participation	2 500 000.00	2 500 000.00

- 4.7.2 That authority be granted to the Chief Financial Officer to identify savings from the approved 2022/2023 Capital budget to fund the projects as highlighted in the report of the Head: Expenditure dated 2023-05-29.

**ADOPTED.**

- 4.8 REPORT BACK ON THE OUTCOME OF THE CONSULTATION ON THE PROPOSED TACTICAL ADJUSTMENT IN THE IMPLEMENTATION PROCESS FOR THE CITY'S INTEGRATED PUBLIC TRANSPORT NETWORK (IPTN), AS APPROVED BY COUNCIL ON 27 JULY 2022 (26/3/1/2)

(Page L78)

During discussion, the Committee was advised of extensive negotiations undertaken, and some, under hostile conditions. That endeavours should now be made to go live in October 2023. That the Municipality will keep on embracing opportunities to negotiate on issues remaining unresolved.

As per the requirement of Council, the matter was subjected to public consultation with key stakeholders, particularly, the National and Provincial Department of Transport, Taxi Operators, Bus Operators, Representations of Commuters etc. It being mentioned that five (05) out of (07) operators appeared to be in support.

During discussions, Members expressed support of the item and emphasis being expressed on the need to take into cognisance different dynamics existing surrounding the matter to therefore emerge with a constructive approach to lead the negotiation whilst gaining support from relevant stakeholders.

With October being described as transport month, it was encouraged that the City should take advantage of such and expedite the process of concluding the negotiations to ensure this initiative was operational to commemorate transport month. Also, that a need also exist to prioritise this matter in order to safeguard the Go! Durban infrastructure with some having succumbed to vandalism without being operational.

Confirmation was given that the Municipality is taking necessary precaution on the discussions to achieve positive results. That incentives were also introduced to ensure that all stakeholders benefit from this initiative. That non-availability of compensation fund has hindered progress for those who had interest to exiting the system.

#### COMMITTEE RECOMMENDS:

- 4.8.1 That Council notes the consultation process followed in order to canvass views and input from the public and key stakeholders on the proposed Tactical Adjustment Framework for an amended approach to the implementation of the City's Integrated Public Transport Network (Go! Durban).
- 4.8.2 That Council notes inputs and comments received from the public and stakeholders, together with the analysis thereof, and responses thereto from the eThekweni Transport Authority, as contained in the report by the Head: eThekweni Transport Authority
- 4.8.3 That Council approves the recommended refinements to the Tactical Adjustment Framework for the implementation of the City's Integrated Public Transport Network, which was approved by Council in July 2022, which are the following:
  - 4.8.3.1 That the *Principle: "Approach to IPTN programme as government: From negotiations to invitation"* be removed and replaced with a clear statement(s) to indicate that negotiations for the implementation of the Integrated Public Transport Network (IPTN) for eThekweni Municipality (the City), including negotiations under the Tactical Adjustment, is to be implemented subject to strict compliance with the provisions of Sections 41 and 46 of the National Land Transport Act No 03 of 2009 as amended from time to time read with the provisions of regulation 2 to the National Land Transport Regulations on contracting on Public Transport Services issued on 31 August 2009.
  - 4.8.3.2 That Section 6 – Incorporation of existing public transport operators, sub-section c(iii) of the Features of the Tactical Adjustment Framework be amended to remove the distinction between operators with more and less than twenty (20) vehicles in the PTOG funded contracts, in order to promote equal treatment of all operators.
  - 4.8.3.3 That, to the extent that the Tactical Adjustment will not exclude Operators who own below twenty (20) vehicles, the originally envisaged thirty percent (30%) sub-contracting allocation to currently unsubsidized Operators be adjusted upfront to accommodate the volume increase of currently unsubsidized Operators and the minimum revised allocation shall be thirty-five percent (35%), and
  - 4.8.3.4 That, deliberate steps are taken to upgrade sub-contractors who perform adequately against clearly defined and measurable key performance areas and key performance indicators to a point where they are afforded an opportunity to operate as Operators in their own right in order to cultivate a greater pool of competition into the future.

4.8.4

That subject to the approval of .3 above, the refined Tactical Adjustment Framework for an amended approach to the implementation of the City's Integrated Public Transport Network (Go! Durban), which is structured as follows:

Principles:

- Regulation 2 (4) under the National Land Transport Act regulations on contracting for Public Transport Services shall be the overarching implementation mechanism;
- The first round of negotiations to be inclusive and best endeavors to be put in place for negotiated contract;
- Failing successful negotiations within the prescribed timelines under regulation 2(4), a formal offer be issued to all Operators in terms of regulation 2(4) incorporating salient features of the Tactical Adjustment;
- Failing acceptance or appropriate response, the Municipality proceeds to conclude contracts with those in agreement with being on-boarded.
- Use available opportunities as a base for implementation and build from there
- Apply the financial sustainability model already developed for the IPTN
- Impacts of the implementation of the IPTN to be handled in line with provisions of the NLTA
- Aspects of the vision for the transformation of the public transport sector, which was approved by the Provincial Executive Committee, to be incorporated

Features

*Table 1*

FEATURE	PHASE 1 AREA	OUTSIDE OF PHASE 1 AREA
1. Services	<ul style="list-style-type: none"> <li>a. At least 16 hours of operation</li> <li>b. Integrated timetables between services in trunk, feeder and complimentary routes</li> <li>c. Feeder and complimentary contracts to have a degree of flexibility to allow for adjustment to align with infrastructure upgrades, as completed right-of-ways (RoW's) come on stream</li> <li>d. Interoperable AFC to facilitate seamless trips for users of the service</li> <li>e. Services to be UA compliant as defined in the UADP, unless physical conditions do not allow, and on feeder and complimentary routes where existing vehicles will be used initially</li> </ul>	<ul style="list-style-type: none"> <li>a. Hours of operation based on current PTOG-funded services, but will be extended, where appropriate, depending on financial sustainability</li> <li>b. Interoperable AFC to facilitate seamless transfer between contracted services for users</li> <li>c. Quality bus service contracts</li> <li>d. Given the fact that mostly existing vehicles will be used to start with, achievement of UA compliance will be difficult. Consideration to be given to extension of the Dial-a Ride service, and introduction of low-entry vehicles, where the route network allows</li> </ul>
2. Infrastructure	<ul style="list-style-type: none"> <li>a. Complete infrastructure and facilities on C1, C3 and C9 corridors, with value engineering where appropriate to improve cost-effectiveness</li> <li>b. Before completion of trunk RoW, opportunities to be identified for converting mixed-flow lanes to dedicated bus lanes</li> <li>c. Prioritization of contracts on the basis of "First to market" to support:</li> </ul>	<ul style="list-style-type: none"> <li>a. Minimum infrastructure upgrades to include:                             <ul style="list-style-type: none"> <li>i. New or upgraded shelters and laybys</li> <li>ii. IFMS infrastructure to facilitate integrated AFC</li> <li>iii. NMT program to enhance UA, and movement of pedestrians and cyclists where possible</li> </ul> </li> </ul>

FEATURE	PHASE 1 AREA	OUTSIDE OF PHASE 1 AREA
	<ul style="list-style-type: none"> <li>Financial sustainability of program</li> <li>Enhancement of rates revenue for the City</li> <li>Unlocking other investments, and</li> <li>Efforts aimed at economic recovery</li> </ul> <p>d. Aggressive NMT programme to enhance the conditions for UA, movement of pedestrians and cyclists, and connectivity for communities to IPTN stations</p>	
3. Vehicles	<p>a. Trunk – low-floor vehicles</p> <p>b. Feeder routes – low entry bus (when available and route dependent) or minibus taxi vehicles as a start</p> <p>c. Complimentary (current PTOG-funded) routes – existing vehicles to start with, and introduction of low-entry vehicles, depending on suitability of routes</p>	<p>a. Quality bus services – use existing vehicles to start with, and introduce low-entry vehicles depending on suitability of routes</p>
4. Depots	<p>a. New depots to be provided and owned by the City for Trunk services</p> <p>b. For feeder and complimentary services – new or existing facilities, as appropriate, to be provided and owned by operators</p>	<p>a. Existing depots to be used</p>
5. Branding	All contracted services to have a common brand, with differentiation for different service offerings based on extent of infrastructure and facility development, and integration of services	
6. Incorporation of existing public transport operators	<p>a. Operators deemed to be affected by the IPTN corridors will not be required to surrender operating licenses for existing services, nor withdraw vehicles, if they elect to participate in the new contracts. Consequently, no direct compensation will be paid to operators. Monthly surveys, however, will be conducted for at least the first six months of each contract to determine impact on other operations.</p> <p>b. The existing PTOG-funded contracts will be used to form the foundation of incorporation of existing operators in the catchment of the contracts in the following ways:</p> <p>c. Participation in the services/contracts run by the Durban Transport Municipal Entity (when it is set up) will be at shareholding level, as already approved by Council, with 40% of the shares available for this. The operators will have to meet the criteria for participation, as already approved by Council. A further opportunity for participation will be through subcontracting, as a minimum of 35% of the service contracts will be subcontracted to currently unsubsidized operators (small bus and minibus-taxi) operating on the same network.</p> <p>Before the establishment of the Municipal Entity, participation by the existing operators will be structured along the same lines as the other PTOG-funded contracts.</p> <p>d. Participation in other PTOG-funded contracts:</p> <ul style="list-style-type: none"> <li>A portion of 35% of each PTOG-funded contract will be made available for participation of currently unsubsidized operators in the catchment of each of the contracts</li> <li>For the minibus-taxi industry, association-based Special Purpose Vehicles or companies will need to be set up for participation in the contracts;</li> </ul>	



FEATURE	PHASE 1 AREA	OUTSIDE OF PHASE 1 AREA
	<ul style="list-style-type: none"> <li>The Special Purpose Vehicles will be entities through which participating Operators derive a benefit;</li> <li>Non-participating Operators will be allowed a fixed time within which to opt in as they see progress because a balance should be struck not abandoning Operators who are anxious about change and not having an open-ended window for them to opt in; The principles for opting in by initial Operators and later opting in by other Operators shall accord with the principles of fair business dealings; and</li> <li>A clear program including KPAs and KPIs will be in place to facilitate graduation of sub-contractors to contractors.</li> </ul> <p>e. For feeder services to support the C2 Corridor, participation of existing operators to be detailed in the business plan being jointly developed by the City and PRASA.</p> <p>f. For Inner City and Outer Ring services - The only participants will be the currently unsubsidized operators (small bus and minibus-taxi) operating along the same routes, provided that they can satisfy a set criteria. Development programs to be put in place.</p> <p>g. For new service areas – current and new operators to be invited to participate. Commercial contracts to also be considered.</p>	

4.8.5 That subject to the approval of .4 above, that the eThekweni Transport Authority:

4.8.5.1 undertakes the revision of the current Operational and Business Plans, for Council approval, in order to ensure compliance with the requirements of the Public Transport Network Grant conditions,

4.8.5.2 Develops a roadmap aimed at a speedy recovery in the implementation of the City's Integrated Public Transport Network, given the extensive delays already experienced in the start of operations on the C3 Corridor (Bridge City to Pinetown). Such a roadmap to detail the following aspects:

- Engagements with key government departments to secure any and all statutory approvals
- Engagements with affected operators for their on-boarding and preparation for start of new operations
- Information sessions for commuters and activations in communities to raise awareness about the new services
- Engagement with key sectors, which are critical for the successful implementation of the City's Integrated Public Transport Network utilizing the amended approach. These sectors to include the financial, bus manufacturing, oil, SETA's, etc.
- Operational readiness preparations

4.8.5.3 Files monthly progress reports for consideration by Council and noting or other appropriate determination, which report must address the following:

- Detailed steps undertaken to implement this resolution and progress made;
- Challenges encountered together with steps to surmount such challenges;
- Insurmountable challenges and particular support enlisted from Council to surmount such challenges; and
- All material information reasonably necessary for Council to apply its mind and note the progress report or make such other determination thereon.

**Financial Implications:**

In terms of financial implications related to the proposed tactical adjustment in the implementation of the IPTN, perhaps the most significant one is the potential loss of the PTNG funding to the City if operations on the C3 Corridor do not commence, and commence very soon.

The pressure on, and from the National Department of Transport to the City to demonstrate the full benefit of the investment already made in the development of infrastructure and facilities, particularly on the C3 Corridor, with the start of operations on this corridor, has been ratcheting up for quite some time, and the City is living on borrowed time if this is not achieved. This sad fate of loss of grant funding has already befallen other cities like Msunduzi, Rustenberg and Buffalo City.

The second most significant implication associated with the proposed tactical adjustment in the implementation of the IPTN is that it is dependent on the City taking over all PTOG-funded contracts in the City from the Provincial Department of Transport. This is a double-edged sword, in that:

- a. On the one hand, the devolution of these contracts to the City with associated PTOG funding is a good thing, and is a necessary move for the City to achieve an integrated and transformed public transport system, and help the City achieve the start of operations on C3. The PTOG funding supporting the existing contracts in the City is currently around R500 Million annually.
- b. On the other hand, however, it is a known fact that these PTOG-funded contracts are grossly under-funded, to an extent that the Department runs out of funding before the end of each financial year. The funding gap in these contracts is estimated at around R600 million a year. It is thus imperative that, as part of the devolution of these contracts to the City, engagements be held with the National and Provincial Departments of Transport, and Treasuries in all three spheres of government to address this shortfall before they are devolved to the City. Some interim arrangement may need to be made to facilitate the utilization of the contracts around the C3 Corridor so that the new service contracts for the corridor can start without any further delays.

The third implication lies in the fact that, with the proposed adjustment in the implementation of the IPTN, there is a potential for savings in the amounts paid to affected operators for direct compensation, given that no withdrawal of operating licenses and vehicles is proposed. That said, however, it is anticipated that more investment will be required to address development needs for drivers and owners of the currently unsubsidized operations, from both the minibus-taxi and bus sectors, to prepare them for participation in the new service contracts.

Once the final approval of the tactical adjustment approach is obtained from Council, a revised Business Plan, with a financial model, will be tabled for Council approval before implementation starts.

**As some members were not in support of noting the recommendations; therefore, the matter was put to the vote. With 175 Councillors present, 127 Councillors (ANC - 83, EFF - 18, IFP -15; ABC – 01; Action SA -02, ACC - 01, ACDP – 02; DLC – 00; ADEC – 00; APF – 00; AIC- 00; ATM -01; ALJAMAH – 00; JEP -01; KZNI – 01, MF – 00, MOSA- 00; NFP - 01; PRM – 01; PFP – 00 and TA- 00) voted in favour of the recommendations; 47 Councillors ( DA – 46 and UIM – 01) voted against the matter. 1 VF- Plus Councillors abstained on the matter.**

**The above recommendations were, by the majority vote, **ADOPTED**.**

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**(At this stage of the proceedings Councillor T Xuma, in his capacity as the Chairperson of the Municipal Public Accounts Committee, presented the report of the Committee).**

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## **REPORT OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE**

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1. **FIRST REPORT – ASSESSMENT OF MPAC FUNCTIONALITY OF UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL**

EXPENDITURE (UIFW) OVERSIGHT PERIOD ENDING 31<sup>ST</sup> DECEMBER 2022  
(QUARTER 2 OF 22/23)

The role and duties of MPAC, as stated in the UIFW process, have been documented in line with Section 32 (2) (ii) and (3) of the MFMA which states as follows:

2. *A municipality must recover unauthorised, irregular or fruitless expenditure and wasteful expenditure from the person liable for that expenditure unless the expenditure –*
  - (a) *In the case of unauthorised expenditure, is –*
    - (i) *authorised in an adjustment budget; or*
    - (ii) *certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by Council; and*
  - (b) *In the case of irregular expenditure is, after investigation by a council committee, certified by the council as irrecoverable and written off by council.*
3. *If the accounting officer became aware that the council, the mayor or the executive committee of the municipality has taken a decision, which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided the accounting officer has informed the council, the mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.*

MPAC is identified as the Council Committee responsible for investigating and making recommendations to Council on the recovery or write off of UIFW related matters.

COGTA, whilst undertaking its oversight and monitoring role over municipalities, has been highlighting the views of National Government with regard to the reduction of UIFW and the implementation of consequence management.

It was, therefore, resolved at The Speaker's Forum convened on 2021-06-22 that COGTA would support municipal initiatives to reduce UIFW. A tool was developed by COGTA and the expectation was that all municipalities would use the tool to assess their functionality on UIFW oversight. Hence, MPAC is required to report quarterly to Council on its performance based on COGTA's tool for the assessment of functionality on UIFW Oversight.

It had been ascertained that the City may not have been fully compliant in its treatment of UIFW once it was incurred. Following workshops with National Treasury, the city aligned its process with National Treasury Circular 68 and the MFMA. There was also input from COGTA and the amended process was workshopped by Internal Control at the Mayoral Workshop held on 12<sup>th</sup> August 2021. Subsequently, the revised process was adopted by Council on 2021-08-26.

In terms of the assessment, MPAC's oversight role would be measured as follows:

- 80-100% - Functional
- 50-79% - Challenged
- 0-49% - Dysfunctional

As COGTA requires the assessment report to be submitted by the second quarter of the financial year 2022/2023, we have acceded to the request and completed the assessment.

We are proud to report, as per the Assessment of MPAC's functionality on UIFW Oversight, (**Annexure 1**), that MPAC has achieved 100% and is fully functional.

Therefore,

COMMITTEE RECOMMENDS:

That the Assessment of Municipal Public Accounts Committee Functionality of Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) Oversight for the period ending 31<sup>st</sup> December 2022 (Quarter 2 of 2022/2023) attached to the report as Annexure 1, be noted.

**DEFERRED to a Special Meeting.**

2. SECOND REPORT - ASSESSMENT OF MPAC FUNCTIONALITY OF UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE (UIFW) OVERSIGHT PERIOD ENDING 31<sup>ST</sup> MARCH 2023 (QUARTER 3 OF 22/23)

The role and duties of MPAC, as stated in the UIFW process, have been documented in line with Section 32 (2) (ii) and (3) of the MFMA which states as follows:

2. *A municipality must recover unauthorised, irregular or fruitless expenditure and wasteful expenditure from the person liable for that expenditure unless the expenditure –*
  - (a) *In the case of unauthorised expenditure, is –*
    - (i) *authorised in an adjustment budget; or*
    - (ii) *certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by Council; and*
  - (b) *In the case of irregular expenditure is, after investigation by a council committee, certified by the council as irrecoverable and written off by council.*
3. *If the accounting officer became aware that the council, the mayor or the executive committee of the municipality has taken a decision, which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided the accounting officer has informed the council, the mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.*

MPAC is identified as the Council Committee responsible for investigating and making recommendations to Council on the recovery or write off of UIFW related matters.

COGTA, whilst undertaking its oversight and monitoring role over municipalities, has been highlighting the views of National Government with regard to the reduction of UIFW and the implementation of consequence management.

It was, therefore, resolved at The Speaker's Forum convened on 2021-06-22 that COGTA would support municipal initiatives to reduce UIFW. A tool was developed by COGTA and the expectation was that all municipalities would use the tool to assess their functionality on UIFW oversight. Hence, MPAC is required to report quarterly to Council on its performance based on COGTA's tool for the assessment of functionality on UIFW Oversight.

It had been ascertained that the City may not have been fully compliant in its treatment of UIFW once it was incurred. Following workshops with National Treasury, the city aligned its process with National Treasury Circular 68 and the MFMA. There was also input from COGTA and the amended process was workshopped by Internal Control at the Mayoral Workshop held on 12<sup>th</sup> August 2021. Subsequently, the revised process was adopted by Council on 2021-08-26.

In terms of the assessment, MPAC's oversight role would be measured as follows:

- 80-100% - Functional
- 50-79% - Challenged
- 0-49% - Dysfunctional

As COGTA requires the assessment report to be submitted by the third quarter of the financial year 2022/2023, we have acceded to the request and completed the assessment.

We are proud to report, as per the Assessment of MPAC's functionality on UIFW Oversight, (**Annexure 1**), that MPAC has achieved 86% for the third quarter and is fully functional.

Therefore,

#### COMMITTEE RECOMMENDS:

That the Assessment of Municipal Public Accounts Committee Functionality of Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) Oversight for the period ending 31<sup>st</sup> March 2023 (Quarter 3 of 2022/2023) attached to the report as Annexure 1, be noted.

**DEFERRED to a Special Meeting.**

3.

THIRD REPORT - QUARTERLY REPORT FOR THE THIRD QUARTER  
2022/2023 FINANCIAL YEAR: JANUARY TO MARCH 2023

2022/2023:  
Quarterly  
Report:  
MPAC

March 31

2023

Report of the Municipal Public Accounts Committee (MPAC) for the  
third quarter of 2022/2023 financial year: January to March 2023

Municipal Public  
Accounts  
Committee  
(MPAC)

## **TABLE OF CONTENTS**

1. CHAIRPERSON'S STATEMENT
2. MEMBERSHIP AND MEETINGS OF THE MUNICIPAL  
PUBLIC ACCOUNTS COMMITTEE
3. ROLE OF THE COMMITTEE
4. SUMMARY OF COMMITTEE ACTIVITIES FOR  
PERIOD OCTOBER 2022 TO DECEMBER 2022
5. MUNICIPAL PUBLIC ACCOUNTS COMMITTEE  
COMMENTS AND FINDINGS FOR SECOND QUARTER OF 2022/2023
6. WORKSHOPS AND TRAINING
7. RECOMMENDATIONS

### **3.1 CHAIRPERSON'S STATEMENT**

It is my pleasure to present the third Quarter Report of the Municipal Public Accounts Committee (MPAC) which records the activities undertaken by the Committee from January to March 2023.

We spent the latter two months of the third quarter interrogating the findings of the Audit Report 2021/2022 and calling in officials to respond to such findings. We completed our Oversight Report timeously and it was adopted by Council on 30<sup>th</sup> March 2023. However, a recurring challenge that we have been experiencing is the inability for our meetings to quorate or for them to end prematurely due to the lack of a quorum. This has had a negative impact on the Committee's functionality. We are hopeful that our membership will be resolved by Council soon to enable us to undertake our responsibilities effectively.

As an oversight Committee, we are working steadily to address the many issues which impact service delivery. It is our aim to hold Management accountable and contribute fully to the achievement of clean administration and good governance by the Municipality.

Councillor Thamisanqa Xuma  
Chairperson: Municipal Public Accounts Committee  
eThekweni Municipality



## 3.2 MEMBERSHIP AND MEETINGS OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

The Committee comprises of 11 members appointed by full Council on a proportional representation basis.

### 3.2.1 Membership of the Municipal Public Accounts Committee during the third quarter of 2022/2023:

NO.	SURNAME	NAMES	DESIGNATION	PARTY
1	Xuma	Thamisanqa	Chairperson	EFF
2	Mkhize	Pearl	Deputy Chairperson	ANC
3	Beesley	Alan David	Member	ASA
4	De Boer	Shontel	Member	DA
5	Fortein	Barbara	Member	ANC
6	Jokweni	Mfanafuthi Arthur	Member	ANC
7	Kissoon	Alicia	Member	DA
8	Sibisi	Kethokuhle Siboniso	Member	DA
9	Naidoo	Jane	Member	IFP
10	Thusi	Muzikayise	Member	ANC
11	VACANCY		Member	ANC

Councillor Pearl Mkhize resigned as a Councillor on 1<sup>st</sup> March 2023 and we wish her well in her future endeavours. This has left us with two vacancies on the Committee.

### 3.2.2 Attendance of Members at Municipal Public Accounts Committee for the third quarter 2022/2023:

Name	Feb 07	Feb 08	Feb 16	Mar 02	Mar 16	Mar 22	Mar 23	Mar 27	Mar 28
Councillor T Xuma (Chairperson)	P	P	P	P	L	L	P	P	P
Councillor P Mkhize (Deputy Chairperson)	P	P	P	Resigned as a Councillor on 1 <sup>st</sup> March 2023					
Councillor AD Beesley	P	P	P	P	P	L	P	L	P
Councillor SV De Boer	P	P	P	P	P	P	P	P	P
Councillor B Fortein	P	P	P	L	P	P	P	P	P
Councillor MA Jokweni	P	P	P	L	A	P	A	A	A
Councillor A Kissoon	P	P	P	P	P	P	P	P	P
Councillor J Naidoo	P	P	P	P	P	P	P	L	P
Councillor KS Sibisi	P	P	P	L	P	P	P	L	P
Councillor M Thusi	P	L	P	P	P	P	P	L	P

### 3.3 **ROLE OF THE COMMITTEE AND COMMENTS**

The primary function of the Municipal Public Accounts Committee is to help Council to hold the Administration, Municipal Agencies and Entities accountable for their management of municipal funds and assets in order to ensure the efficient and effective utilisation of council resources. This includes the Council's Support Committees, Executive Committee as well as Councillors. MPAC plays a role in increasing public and Council awareness of the financial and performance issues of the Municipality and its Entities.

### 3.4 **SUMMARY OF COMMITTEE ACTIVITIES FOR PERIOD JANUARY 2023 TO MARCH 2023**

The Committee's activities include a mix of self-initiated and referred enquiries. We therefore receive submissions and conduct briefings/hearings on such matters as and when required.

Activity	Number
Reports Tabled	53
Deliberative Meetings	9
Interviews with Officials	43
Hearings	4
Briefings	1
Witnesses Appearing	Nil

### 3.5 **MUNICIPAL PUBLIC ACCOUNTS COMMITTEE COMMENTS AND FINDINGS FOR THE THIRD QUARTER OF 2022/2023**

#### 3.5.1 MPAC Workplan 2022/2023:

As per the MPAC Workplan 2022/2023 adopted by Council on 2022-06-30, the following reports were received and considered by Committee during the 3<sup>rd</sup> quarter:

- Budget Statement Reports for the months ending October, November & December 2022
- Monthly Tender Awards of Ethekewini Municipality for the months of October, November & December 2022
- Review of External Service Provider Performance Monitoring by Units within the Municipality for Quarter 1 of 2022/2023 Financial Year
- Unauthorised, Irregular, Fruitless and Wasteful Expenditure recommended for Write Off or Recovery as at 30<sup>th</sup> September and 31<sup>st</sup> December 2022
- City Integrity and Investigations report for the 1<sup>st</sup> and 2<sup>nd</sup> quarter 2022/2023
- Disciplinary Board for Financial Misconduct for 2<sup>nd</sup> Quarter 2022/2023

3.5.2 Tracking of Auditor General's Findings 2020/2021:

Committee had requested Unit Heads to provide progress reports on the remedial actions to address their outstanding findings for the above period. During this quarter, updates were provided by the following Heads:

- Water and Sanitation
- Supply Chain Management
- Cleansing and Solid Waste

We have communicated with other Heads of Units and are awaiting their progress reports.

3.5.3 Irregular Expenditure:

This continues to be an area of great concern to MPAC. We are in the process of interrogating large amounts of irregular expenditure in order for the same to be recovered or written off. This has proven to be a lengthy process as Committee has to apply its mind to the root cause, why it may be a repeat finding and what controls have been put in place to mitigate against future non-compliance.

### 3.6 WORKSHOPS AND TRAINING

Members attended COGTA training in respect MPAC's oversight roles and responsibilities within local Municipalities on 13<sup>th</sup> & 14<sup>th</sup> March 2023.

The Auditor General South Africa held an MPAC Capacitation session; to enable and strengthen oversight over municipal affairs as well as provide insight and support to improve accountability within the Municipality.

### 3.7 RECOMMENDATIONS

#### COMMITTEE RECOMMENDS:

That the report of the Municipal Public Accounts Committee for the third quarter of the 2022/2023 financial year, from 1<sup>st</sup> January to 30 March 2023, be noted.

**DEFERRED to a Special Meeting.**

4. FOURTH REPORT - UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL (UIFW) EXPENDITURE MULTIPLE FINANCIAL YEARS FROM 2017/2018 TO DATE (2022/2023)

#### BACKGROUND:

Section 32(2) of the MFMA provides that a Municipality must recover UIFW expenditure, except where the unauthorised expenditure is regularized through an adjustments budget, or where the expenditure is deemed to be irrecoverable following an investigation into the expenditure incurred.

The section reads as follows:

“A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure—

- (a) in the case of unauthorised expenditure, is—
  - (i) authorised in an adjustments budget; or
  - (ii) certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and
- (b) in the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.”

#### **ANALYSIS OF UIFW CASES FINALISED:**

In line with National Treasury’s Municipal Finance Management Act Circular No. 68 and as outlined in Regulation 74 of the Municipal Budgets and Reporting Regulations, the process outlined below, was followed:

- A report was prepared by the Unit that incurred irregular expenditure after investigation by the said Unit. The report disclosed the deviation from Supply Chain Management Policy, the reasons for the deviation and the value of the expenditure.
- The report together with the supporting documents were submitted to the Internal Control Unit for review and thereafter were submitted to the Bid Adjudication Committee for noting purposes.
- The Internal Control Unit reviewed and applied its mind on the report and considered whether there was any value for money obtained by the municipality or any losses suffered by the municipality due to non-compliance detected using the following questions:
  - (a) The nature of the irregularity
  - (b) Whether or not the contracts followed the SCM public tender process
  - (c) Whether or not the Unit Head had certified that value for money was received
  - (e) Whether or not the Unit Head has confirmed that goods or services were delivered as per contract specifications and initial contract rates
  - (f) Whether corrective action needed to be undertaken
  - (g) Whether preventative measures were required to be implemented and the status of such actions; where deemed necessary
- Irregularities were identified during the audit by the Auditor-General South Africa as well as irregularities identified through investigations by the City Integrity & Investigations Unit.

Cumulative UIFW expenditure totaling **R1 014 204 224.97** (One billion fourteen million two hundred and four thousand two hundred and twenty four rands and ninety-seven cents) was identified by following sources namely:

Source	Annexure	Amount
Internal Control	A	R857 350 423.51
City Integrity & Investigations Unit	B	R132,352,576.59
	C	R24,501,224.87
<b>TOTAL</b>		<b>R1 014 204 224.97</b>

Furthermore, of the cumulative UIFW incurred, an amount of **R24,501,224.87** (Twenty four million five hundred and one thousand two hundred and twenty-four rands and eighty-seven cents) was deemed recoverable as a result of investigations undertaken by the City Integrity and Investigations Unit.

We interviewed each Unit Head and relevant Officials to establish the root causes of the UIFW expenditure. We further established the mitigating measures that had been implemented to prevent a recurrence of the expenditure and confirmed that disciplinary action had been taken or would be taken against the officials that had caused the expenditure to be incurred. In some instances, we noted that matters had been referred for criminal investigation.

Having duly considered and deliberated on the UIFW expenditure concerned,

#### COMMITTEE RECOMMENDS:

- 4.1 That in compliance with Section 32(2) of the Municipal Finance Management Act (MFMA), irregular, fruitless and wasteful expenditure totaling **R989,703,000.10** (Nine hundred and eighty nine million seven hundred and three thousand rands and ten cents) as detailed in “**Annexures A & B** of this report be certified as irrecoverable and written-off by Council based on the outcomes of the investigations of such expenditure.
- 4.2 That in compliance with Section 32(2) of the Municipal Finance Management Act (MFMA), fruitless and wasteful expenditure totaling **R24,501,224.87** (Twenty four million five hundred and one thousand two hundred and twenty-four rands and eighty-seven cents) as detailed in **Annexure C** of this report be recovered from the relevant or former officials of the Municipality as well as entities and service providers.
- 4.3 That it be noted that any consequence management recommendations will be dealt with in accordance with the Council Policy in relation to financial misconduct and oversight by the Financial Misconduct Disciplinary Board.

**DEFERRED to a Special Meeting.**

#### REPORT OF COMMITTEE DECISIONS

Decisions of Committees reflected below have been reported to Council by way of circulating minutes of such Committees to each Member of the Council:-

1. COMMUNITY SERVICES COMMITTEE

Meeting held on : 2023-04-13

2. ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE

Meeting held on : 2023-04-20

3. EXECUTIVE COMMITTEE

Meeting held on : 2023-04-24  
: 2023-04-26

4. FINANCE COMMITTEE

Meeting held on : 2023-04-19

5. HUMAN SETTLEMENT AND INFRASTRUCTURE COMMITTEE

Meeting held on : 2023-04-04

6. LOCAL LABOUR FORUM: TREASURY AND OFFICE OF THE CITY MANAGER

Meetings held on : 2023-04-12  
: 2023-05-10

7. SECURITY AND EMERGENCY SERVICES COMMITTEE

Meeting held on : 2023-03-22

8. TOWN PLANNING APPEALS COMMITTEE

Meeting held on : 2023-05-11

9. SPEAKER'S COMMITTEE

Meeting held on : 2023-04-24

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**ITEMS FOR NOTING**

**The Items for Noting, reflected on Pages 32 to 36 of the Agenda, pertaining to the items discussed and resolved at the Executive Committee level during the month of April 2023 were, **NOTED.****

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The meeting terminated at 18h19 and moved into in-committee.

APPROVED AT THE MEETING OF THE ETHEKWINI COUNCIL ON 2023-07-13.

SPEAKER