

No. 43

MINUTES

OF

ETHEKWINI MUNICIPAL COUNCIL

Meeting held on Tuesday, 2023-08-15T10:00,
Inkosi Albert Luthuli International Conventional Centre, Durban.

PRESENT : Councillors T Nyawose (Speaker), TM Kaunda (Mayor), J Annipen, AD Beesley, A Beetge, M Billy, T Biyela, JM Black, NJ Bollman, M Brauteseth, WJD Burne, MH Buthelezi, KPM Cele, SB Cele, SP Chebure, J Chetty, R Cloete, SV De Boer, CB Dlamini, Z Dzanibe, J Essop, BA Fortein, SN Gabela, SG Gama, GM Gasa, DM Gcabashe, FO Gcabashe, NBC Godlwana, R Gokool, G Govender, S Govender, SV Govender, Y Govender, BR Gumede, S Gumede, BM Gwala, MS Gwala, GJ Hegter, MM Hlengwa, NP Hlomuka, F Ismail, MF Ismail, LBS Jali, DM James, M Johnson, MA Mgobhozi, K Khambule, MH Khan, MN Khubisa, KNN Khuboni, NL Khuzwayo, ZW Khuzwayo, SNC Khwela, A Kissoon, BG Kubheka, V Kunju, CJ Laing, SW Lushaba, M Lutchen, WM Luthuli, ME Mabaso, MA Madlala, NI Madlala, SR Madlala, RP Maharaj, S Maharaj, FN Majola, HS Makhathini, TG Makhanya, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, KT Mbhele, RP Mbonambi, RD Macpherson, BA Mchunu, NP Mchunu, SW Mcineka, RL McKenzie, X Mdlazi, FW Mdletshe, DL Mea, SP Mfeka, K Mhlaba, DPM Mhlongo, GN Mhlongo, NM Mhlongo, SE Mhlongo, MB Mjadu, AZ Mkhize, KV Mkhize, MA Mkhize, ME Mkhize, MP Mkhize, NA Mkhize, NN Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, BR Mngadi, DF Mngadi, E Mngadi, SV Mngadi, MR Mngonyama, TJ Mnguni, ZM Mncwango, DP Mngoma, BV Mngwengwe, ZO Mnomiya, S Mnyandu, T Mohamed, SR Moodley, R Moses, ND Motseke, SB Mpanza, LI Msomi, DV Msweli, LG Mthembu, SSS Mthethwa, TD Mthethwa, TM Mthethwa, N Munien, OB Mvubu, , ZP Myeni, SK Mzimela, BD Naidoo, J Naidoo, V Ncukana, NB Ndlela, AB Ndlovu, PB Ndlovu, PC Ndlovu, NS Ndlovu, V Ndlovu, SG Nene, TH Nene, S Ngema, DB Ngubane, LE Nkomeni, MS Nkosi, DR Nowbuth, XM Nqweniso, DM Nsundwane, PC Ntshangase, BT Ntuli, N Ntuli, NZ Ntuli, PB Ntuli, B Nxumalo, MR Nxumalo, PH Nxumalo, NN Nyanisa, MV Nzimande-Madlala, AAK Paruk, AE Peterson, DT Pillay, P Pillay, GDA Pullan, A Rampersad, VG Reddy, T Sabelo, S Sewshanker, A Shaheed, BH Shange, LP Shange, MG Shange, TE Shezi, IM Shinga, HP Shoji, JN Sibisi, KS Sibisi, WP Sibisi, LC Sikakane, BSB Sindane, J Singh, EL Singh, PS Sishange, CN Sisoka, NI Sithole, BS Sivetye, EG Smith, AD Snyman, 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, NI Webster, SM Windvogel, TV Xulu, T Xuma, M Zondi, N Zondi, ON Zondi-Mthembu, TG Zungu and there being three (03) vacancies.

ABSENT : Councillors A Abdul (Personal Commitments), NC Gumede, SD Hlongwa, JL Mchunu (Indisposed), T Miya (Indisposed), S Mngadi, MF Ndlovu (Indisposed), SB Ngcongco (Municipal Business), SH Ntombela (Indisposed), BW Phewa, S Singh (Indisposed), NY Young (Personal Commitments) and GN Zondi.

AMAKHOSI

PRESENT : Inkosi S Mlaba.

AMAKHOSI

ABSENT : Inkosi JJ Shangase and Inkosi EB Shozi (Personal Commitments).

OFFICIALS

PRESENT : Messrs/Mesdames TB Mbhele (City Manager), S Mfingwana (Deputy Head: Litigation), M Mthandeni (Deputy Head: Legal Support), BM Mhlongo (Deputy Head: Office of the Speaker), TN Ndlovu (Senior Manager: Secretariat), and SC Zondi (Chief Committee Officer).

(Prior to opening the meeting, time being 10h15, the Speaker requested Secretariat to confirm the number of Councillors present at this meeting to establish if the meeting was quorate.)

(Thereafter, with the time, being 10h21; a confirmation was given that 188 Councillors were present, comprising of ANC - 88, DA - 44, EFF - 21, IFP - 13, ActionSA - 02, ABC - 02, ACC - 02, ACDP - 02, AIC - 01, ADEC - 00, APF - 00, ATM - 01, AL JAMA-AH - 01, DLC - 01, JEP - 01, KZNI - 01, MF - 01, MOSA - 01, NFP - 01, PFP - 01, PRM - 01, TA- 01, UIM - 01 and VF Plus - 01).

1. NOTICE CONVENING THE MEETING

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

2. OPENING

The Speaker declared the meeting open at 10h21 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 In noting that August being a Women's Month and that celebrations were continuing, on behalf of Council, the Speaker saluted all women for being the backbone of families and communities. That Council was geared to strengthening Women Empowerment Programmes as part of uplifting women in various disciplines, for them to also play a meaningful role in economic activities, in particular.
- 5.1.2 The eThekweni's resilience after disasters has caught the attention of the BRIC countries. It being noted that the Gauteng Province has hosted the BRICS Summit in the month of August, also that eThekweni has been earmarked to host build-up events, and a platform to share floods challenges, with internationals to put heads together to determine measures to mitigate floods risks in the area of eThekweni.
- 5.1.3 On behalf of Council, the Speaker mentioned that the Municipality was proud for its decision to sponsor Impucuzeko Maskandi Festival held on 12 August 2023, promoting our very own Maskandi Artists, whilst also boosting local business. Events remain a drawcard to stimulate local economy. That the City of eThekweni will continue competing in the events space to promote local economic growth.
- 5.1.4 It was mentioned that eThekweni leadership condemns the killings happening in the City, with the recent assassination involving the shooting incidents killing nine (09) people at Umlazi, it being confirmed that the number has increased to eleven (11). He pleaded for the communities to work with law enforcement to eventually apprehend perpetrators. He also acknowledged neighbourhood forums which assist in fighting crime in their respective communities.
- 5.1.7 The Office of the Speaker saddened by the loss of our fellow DA Councillor Msomi. That the loss of one (01) Member is the loss of invaluable contribution to take the City forward. Condolences were extended to the family; friends; relatives; and also, to the DA and the eThekweni Municipal Council.
- 5.1.8 The Speaker reported that the Municipal Leadership also wished the Founder of IFP and Member of the South African Parliament, Prince Mangosuthu Buthelezi, a speedy recovery as he was hospitalized due to ill health.
- 5.1.9 He also reported that the Minister of Cooperative Governance and Traditional Affairs issued Regulations gazetted in June 2023 to supplement the Code of Conduct for Councillors. The Office of the Speaker will conduct a Workshop in this regard in September 2023 for all Councillors to understand the Regulations and its implications. Specific date to be confirmed in due course.
- 5.1.10 The Speaker pleaded with Councillors to conduct themselves with dignity; debate constructively; respecting the public that follow the meeting through the social media platforms Also, to cooperate with the Administration Team supporting the proceedings, with Party Whips to monitor conduct of their respective members, reprimanding them where required.
- 5.1.11 Best wishes were then extended at all Councillors who celebrated their birthdays during the month of July.

At the conclusion of the Speaker's announcements, the IFP drew attention to the allegations that the Inkosi Albert Luthuli International Convention Centre (ICC) venue hire costs for the African National Congress Women's League (ANCWL) Conference will be paid by the Municipality. In this regard, the IFP requested confirmation from the City Manager whether such allegations were unfounded.

In response, the Speaker advised that apparently the allegations are circulating, as having been seen by some on social media platforms. However, that no formal complaint has been lodged in his Office in this regard to then enable further investigations. That a report would be submitted to the Council in the event formal complaint is lodged or information is shared with his Office.

On the other hand, at this stage of the proceedings, the EFF also drew the attention of the Council to some members of the public apparently gathering outside this meeting venue and being prevented to join the meeting. Clarity being sought then whether is there any knowledge of this group of people. The Speaker then undertook to urgently check this matter with the assistance of the Administration and the Security Management Team.

Reverting back to the issue of the ANCWL Conference venue hire costs allegations, the ActionSA requested that the City Manager gives assurance that the Municipality will not make any payments to the ICC for this Conference. On the issue of members of the public allegedly refused access to the meeting venue, the ActionSA referred to Rule 7 of the Rules of Order By-Law 2014, as amended, which specified that "(1) In terms of Section 20 of the Local Government: Municipal Systems Act No. 32 of 2000, meetings of the Council and those of its Committees are open to the public, including the media..." Therefore, the ActionSA appealed to the Council to give access to members of the public already in arrival to then join this meeting.

Also joining the debate, the ANC began by noting the Speaker's announcements and, in particular, extending congratulatory remarks to Councillor ZR Sokhabase for being appointed new Provincial Secretary of the ANCWL. Then on the issue of venue hire costs, it was reported that the ANC as the organisation is more than capable to make own payments for its campaigns and conferences. That government spheres were prohibited from making financial contributions to any Political Party.

The discussion centred on the Conference venue costs was wrapped up with confirmation being given by the City Manager that the Municipality will not pay for the ANCWL Conference. Also confirming receipt of official correspondence from the ActionSA enquiring about this allegation, and with the response thereon to be provided to the Party in due course.

Notwithstanding the flexibility granted to proceed even though the matter in question falls outside the Order of Procedure, the Speaker cautioned though that in future adherence be made to the provisions of the Rules of Order By-Law to submit matters before the Council for consideration. That members should refrain from reducing the Council to discuss social media articles. This view being supported by the other Council members who felt that it was inopportune to discuss the matter at this level and in the absence of formal written submission.

6. SPEAKER'S REPORT

6.1 **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 the period June to August 2023, in line with the provision of Section 13(f) of the Rules of Order By-Law 2014, as amended.

It being noted that end of June marked the end of the financial year, the report will therefore also outline key activities and achievements undertaken over the 2022/2023 financial year.

6.2 **Ward Committees**

6.2.1 The Speaker mentioned that Ward Committees are part of Council committees elected in all Wards except for one. The only Ward which remained without the election is Ward 39. As statutory committees these are also monitored in terms of the functionality.

6.2.2 That during the 2022-2023 financial year, the following meetings have been held by Ward Committees:

Quarter 1: July-September 2022	Quarter 2: October-December 2022	Quarter 3: Jan-March 2023	Quarter 4: April-June 2023	Total Number of Meetings Held during 2022/2023
282	175	181	271	909

6.2.3 The Speaker was pleased to report that all elected Ward Committees remain functional and continue to carry out their respective responsibilities as contained in the Rules regulating their establishment and operations.

6.2.4 The KZN Department of Cooperative Governance and Traditional Affairs continues to undertake quarterly functionality assessments, and for quarter three (January – March 2023) assessment, a total of **61 (55%)** Wards were deemed functional, with only **50 (45%)** being found non-functional. It being noted that this was a huge achievement, for the Municipality.

6.2.5 Council further noted that these Committees as part of the Municipal Council Committees, have had matters referred through recommendations to Support Committees for further deliberation and consideration thereof.

6.2.6 That over the 2022/2023 financial year, the Speaker was also pleased to report that almost all Portfolio Chairpersons have been trained on the scope of their respective responsibilities, and in some instances officials from relevant Units were formally introduced to Members to assist them to establish relations with such Service Units.

6.3 **Community Engagements**

6.3.1 The Speaker emphasised that holding and reporting on stakeholder engagements remain a statutory obligation for all elected Councillors. Councillors were reminded and encouraged to comply in this regard.

6.3.2 Further, that this is also being a statutory requirement for all Municipalities as part of enhancing public participation and these are encouraged and monitored, even by the National Treasury, through compulsory indicators contained in the Service Delivery Implementation Plan reporting for all Municipalities.

6.3.3 That over the 2022/2023 financial year, the following engagements were reported:

Quarter 1: July-September 2022	Quarter 2: October- December 2022	Quarter 3: Jan-March 2023	Quarter 4: April-June 2023	Total Number of Meetings Held during 2022/2023
87	114	123	123	447

6.3.4 The Speaker was pleased to note that there was an improvement in the number of community engagements held, and reported on, but there was still room for improvement, as there are community members that still raise concerns about the visibility of elected Council Members, and limited information being shared.

6.4 Code of Conduct for Councillors Regulations, 2023

6.4.1 Council noted that in the month of June 2023, Minister of Cooperative Governance and Traditional Affairs, Ms Thembi Nandimeng, gazetted Regulations amending the Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act No. 117 of 1998, as amended.

6.4.2 The regulations are issued in terms of Section 92 of the Local Government: Municipal Structures Act No. 117 of 1998, as amended and impact on the following areas of the Code of Conduct for Councillors: -

ITEM	REGULATIONS PROVISION
Definitions	<p>The following terms are defined in the regulations:</p> <ul style="list-style-type: none"> a) “Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) as amended b) “behavior” means verbal or non-verbal communicative conduct, tone of voice, body language and demeanor, deportment, bearing and etiquette relative to one’s conduct towards others c) “Chairperson” includes a councillor- <ul style="list-style-type: none"> - elected as the speaker of the municipal council; - elected as a mayor or deputy mayor, or a councillor presiding over meetings of the executive committee; - elected as the executive mayor or executive deputy mayor; - elected as the chairperson of a metropolitan sub-council; or - appointed as the chairperson of a committee that is established in terms of sections 79, 79A or 80 of the Act d) “Code” means the Code of Conduct for Councillors in Schedule 7 of the Act e) “committee” means an executive committee established in terms of section 42 of the Act, or a mayoral committee established in terms of section 60 of the Act, or a metropolitan sub-council established in terms of section 61 of the Act, or a committee established in terms of section 79, 79A or 80 of the Act f) “Department” means the Department of Cooperative Governance

ITEM	REGULATIONS PROVISION
	<p>g) “gift” includes physical offerings, rewards, hospitality (such as breakfast, lunch or dinner), money, sponsorships, commissions or any other benefit or gratification that is received by a councillor</p> <p>h) “meeting” includes meetings that take place in the chambers of the municipal council, or any other venue or virtual platform as indicated in the agenda of the council meeting, and includes meetings of a committee of the council</p> <p>i) “MFMA” means the Local Government: Municipal Finance Management Act, 2003 (Act No.56 of 2003)</p> <p>j) “quarter” means any period from 01 January to 31 March, or from 01 April to 30 June, or from 01 July to 30 September, or from 01 October to 31 December, in a calendar year</p> <p>k) “quorum” means a number above 50% of members of the municipal council as envisaged in the Act</p> <p>l) “virtual platform” means an information and communications technology related platform used to convene meetings, and</p> <p>m) “walk-out” is an act of leaving a meeting or failing to remain in attendance at that meeting, by a councillor or councillors, without the permission of the chairperson when a vote is taken on any matter, or before the chairperson has adjourned the meeting</p>
Application	Which indicates that the Regulations apply to all Councillors; Traditional and Khoi-San leaders.
General Conduct of Councillors	<p>There are additions pertaining to councillor’s unruly behavior including when such Councillor assaults or threatens to assault an official or another Councillor.</p> <p>It also outlines provision for when a Councillor is known to have or have been seen to orchestrate a group of members of the public or municipal staff to engage in violent protests or labour unrest against the municipality.</p>
Attendance at meetings	<p>There are additional provisions to this section of the Code, on the quorum of a meeting, where if the meeting is not quorate at the scheduled time of the meeting, the Chairperson allows for 20 minutes suspension to allow more members to join.</p> <p>At the expiry of that 20 minutes, a provision is made that the meeting be suspended for a further 20 minutes, and at the expiry of the second 20 minutes if there’s still no quorum, the Chairperson adjourns the meeting to another date and time.</p> <p>The Regulations further indicate that a councillor or councillors who walk-out of a meeting or is removed from the meeting by the chairperson in terms of regulation 3(2) is in breach of the Code.</p>
Voting at meetings	There is an additional provision pertaining to a councillor who commits a criminal offence in terms of section 173(4) and (5) of the MFMA, read with the Municipal Regulations on Financial Misconduct Procedure and Criminal Proceedings, 2014 and section 174 of the MFMA, that they’re in breach of the Code.
Prescribed value of gifts received by councillor	The regulations indicate that councillors must declare in writing any gifts to the value of R1, 000.00 (one thousand rands) and higher. It further indicates that failure to declare a gift (s) in terms of these provision is a breach of the Code.
Duty of the Speaker	The Regulations gives responsibilities to speakers of council to ensure that each Councillor, Traditional or Khoi-San leader is in receipt on the Code and is familiar with the provisions therein.
Breaches of Code	The added provision to the Code pertaining to the breaches of Code, is that any breaches that occurred in a committee of council must be reported within 7 (seven) days of alleged breach by Committee Chairperson to Speaker for further action.
Councillors in arrears to the municipality for rates and service charges	The Regulations gives a responsibility to the Municipal Manager to immediately inform the Councillor in writing, when the Councillor is in arrears to the municipality for rates and service charges for a period that is longer than two months, even if the councillor has been newly elected to the Municipal Council.

ITEM	REGULATIONS PROVISION
	It further indicates that a Councillor who is in arrears to the municipality for a period longer than 3 (three) months is in breach of the Code. The Speaker must ensure that the arrears are recovered from the Councillor.
Reporting	In terms of the Regulations the Speaker must submit a bi-annual report on the compliance with the Code to MEC for Local Government within 30 days from the beginning of January and July of a calendar year.
Repeal of Regulations	The Local Government: Municipal Systems Regulations published by Government Notice R459 OF 2001, in Government Gazette 22328 of 25 May 2001, have been repealed accordingly.
Short title and commencement	The Regulations are called the Code of Conduct for Councillors Regulations, 2023, and take effect on the date of publication thereof, it being 14 June 2023.

Accordingly, it was

RESOLVED:

- 1.1 That the Municipal Council notes the contents of the Code of Councillors, Regulations, 2023, effective from June 2023, as gazette by Minister: Cooperative Governance and Traditional Affairs, Ms Thembi Nkadimeng.
- 1.2 That the Municipal Council notes that a Councillor's Workshop will be scheduled in September 2023 to unpack the contents and implications of the Code of Councillors, Regulations, 2023, as gazette by the Minister of Cooperative Governance and Traditional Affairs, Ms Thembi Nkadimeng.

6.5 ALTERNATE MEMBERS: ETHICS COMMITTEE

- 6.5.1 It was reported that the Ethics Committee was established by the Municipal Council in line with section 16(b) of Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No. 117 of 1998, as amended to investigate and make findings on any alleged breach of the Code.
- 6.5.2 It was noted that Membership was allocated to the Ethics Committee on proportional basis; however, the alternates were not allocated accordingly. The following Members have been assigned as alternate Members to that Ethics Committee:

NO.	NAME	POLITICAL PARTY
1.	Councillor Ayanda Brightman Ndlovu	ANC
2.	Councillor Sibusiso Welcome Lushaba	ANC
3.	Councillor Aubrey Snyman	DA
4.	Councillor Nothando Prudence Mchunu	IFP
5.	Councillor Natalie Isobel Webster	EFF

In view of the foregoing, it was

RESOLVED:

That the Municipal Council notes that Councillors Ayanda Brightman Ndlovu (ANC); Sibusiso Welcome Lushaba (ANC); Aubrey Snyman (DA); Nothando Prudence Mchunu (IFP) and Natalie Isobel Webster (EFF) have been appointed alternate Members to the Ethics Committee.

6.6 Council Membership

6.6.1 Council noted that the Municipal Council currently has two (02) vacancies, arising from the sudden passing of late Councillors Msomi, Ward 09 Councillor from the Democratic Alliance (DA), and Councillor Msibi Proportional Representative (PR) Councillor from the Economic Freedom Fighters (EFF).

6.6.2 Council further noted that the two (02) vacancies will be filled once the Independent Electoral Commission (IEC) confirms a date for a by-election relative to the Ward Councillor and the other PR vacancy will be filled upon receipt of appointment confirmation by IEC.

At the conclusion of the Speaker's report, the ActionSA reverted back to the issue raised, that of members of the public in arrival in the meeting venue, a submission being made then that the Council is in breach of the provisions of Section 20 of the LG: MSA and Rule 7 of the Rules of Order By-Law by not allowing these members to join this meeting, and without giving any reasons for such permission not granted. The Speaker then responded, advising that this matter is receiving the necessary attention, with a response thereon to be provided shortly.

Meanwhile, the DA referred to the item relating to the Council membership contained in the Speakers Report and then requested update on the implementation of the Council decision pertaining to the removal of Ward 101 Councillor Ngiba from the office as the Councillor.

Arising from the Speaker's report, the ANC noted the revised Regulations on the Code of Conduct for Councillors as presented by the Speaker. On the matter raised by the ActionSA, the ANC reported that members of the public in question are protestors that have since been apparently addressed by a Councillor of the ActionSA. In this regard, they enquired whether the Rules do allow for such arrangement, where any Councillor can attend to protestors.

In providing the response as promised, the Speaker confirmed that protestors are gathering outside. He then advised that any member of the public can join the Council proceedings, but that protestors will be treated differently but in line with applicable legislations.

Regarding the query from the DA on the matter of Councillor Ngiba, the Speaker advised that, in line with the applicable process, the decision of the Council on this matter was referred to the Provincial Department of Cooperative Governance and Traditional Affairs (Cogta) to receive the concurrence of the MEC for Cogta. That feedback in this regard is still pending.

Reference being made on the issue of protestors that have allegedly been addressed by a Councilor of the ActionSA, the APF was of the view that this Councillor has apparently misled the Council and therefore recommended that consideration be given to reporting the matter to the Ethics Committee to investigate an element of misconduct in this regard.

The Speaker then ruled that protestors will not be allowed to join this meeting as they came for a different purpose other than participating in the Council meeting.

7. APPLICATIONS FOR LEAVE OF ABSENCE

RESOLVED:

That the following Councillors and Amakhosi be granted leave of absence as indicated:

COUNCILLORS

Councillor A Abdul	: 2023-08-15	Personal Commitments
Councillor J Essop	: Requested to leave at 16h00.	
Councillor TM Kaunda	: Requested to leave early.	
Councillor M Lutchmen	: Requested to leave at 12h00.	
Councillor JL Mchunu	: 2023-08-14 To 2023-08-15	Indisposed
Councillor K Mhlaba	: Requested to leave at 16h30.	
Councillor R Moses	: Requested to leave at 13h00.	
Councillor N Munien	: Requested to leave early.	
Councillor T Miya	: 2023-08-15	Indisposed
Councillor J Naidoo	: Requested to leave 12h30.	
Councillor P Pillay	: Requested to leave at 13h30.	
Councillor VG Reddy	: Requested to leave at 17h00.	
Councillor MF Ndlovu	: 2023-08-15	Indisposed
Councillor SB Ngcongo	: 2023-08-15	Municipal business
Councillor SH Ntombela	: 2023-08-14 To 2023-08-15	Indisposed
Councillor EL Singh	: Requested to leave at 12h30.	
Councillor S Singh	: 2023-08-15	Indisposed
Councillor T Xuma	: Requested to leave at 13h00.	
Councillor NY Young	: 2023-08-15	Personal Commitments

AMAKHOSI

Inkosi EB Shozi : 2023-08-15 Personal Commitments

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 2023-06-15

The eThekweni Municipal Council Minutes for the meeting reflected above were tabled as having been circulated:

- (i) 2022-06-15 (Ordinary) were tabled, moved by Councillor Mngwengwe and seconded by Councillor Khambule.

Thereafter, it was

RESOLVED:

That the minutes of the meeting of the eThekweni Municipal Council held on 2023-06-15, as circulated and taken as read, be and are hereby confirmed.

10. MATTERS ARISING

It was noted that there were no matters arising in respect of items appearing on the Minutes.

Prior to considering the items below, the Speaker confirmed that responses to be provided to questions submitted would also be circulated to the Authors.

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

11.1 Questions submitted by Councillor EL Singh: Continuation of water shedding in Phoenix (23/1/4):

Residents that are supplied by Phoenix Reservoir 2 are having continued water rationing, this has been going on prior to 2021. Last year October, I pose the questions to Municipality and a timeframe was given – 30 June 2023, by which Umgeni Water would have completed the project. For this Council to please note – 28/05/23 on the eThekweni Facebook page, states that the water rationing schedule is no longer applicable, yet water rationing is ongoing.

It is against this backdrop that I pose the following questions:

1. **Why are residents that are fed by Phoenix Reservoir 2 still incurring nightly cuts?**
2. **When can residents expect to have a permanent water supply?**
3. **What is the current status of what transpired at Umgeni Water?**
4. **Why are Councillors and the community not provided with information timeously?**
5. **What update has been communicated to residents?**
6. **Is water from Phoenix Reservoir 2 being diverted to neighbouring communities. Is so, kindly lit the reasons?**
7. **In questions pose to Council last year, 27 October 2022, deadline provided for the permanent water supply was June 2023, we are in July 2023, why are we still having water cuts?**

Councillor BO Mvubu Chairperson of Human Settlements & Infrastructure Committee provided the following respective responses:

1. It was reported that the Phoenix 2 reservoir was generally not coping due supply and demand issues. Normally once the system stabilizes, the Municipality will be in a position not have to close the Phoenix 2 reservoir every night to build up storage. That recently, the Municipality have also experienced burst pipes on the Northern Aqueduct which a shut had to be done to affect the repairs. Due to this

issue, the two compartments need to be balanced i.e., whereby the outlets of the compartments will be opened on a rotational basis e.g., while compartment one outlet is opened, compartment two will be closed to build storage and vice versa.

The system may take some time to stabilize and once the system has stabilized the nightly cuts will be stopped.

2. A definite timeframe cannot be established at this moment, as the system has not stabilized.
3. The Umgeni system is back to normal with regards to Durban Heights Reservoir 3 and the repairs for the aqueducts are completed.
4. Unfortunately, reservoir systems are hydraulic in nature comprised of pipeline, mechanical equipment and various other components to make the system function efficiently. It does happen sometimes that reservoirs do run to low level and the operations teams, when notified, with the limited resources currently must conduct troubleshooting and check all scenarios to find the root cause. Unfortunately, these troubleshooting exercises take a lot of time while the outlets are closed, and the consumers are affected. In addition, there are live operating systems and once a reservoir reaches low level it is shut to avoid the complete drainage of the reservoir to zero level. Telemetry branch is fully updated with every reservoir that is shut due to low level and call centre can obtain this information internally from telemetry section (on a 24-hour basis) and then relay this information to the various stakeholders. As there are emergency operations it is sometimes not possible to cascade these to all Councillors every time, we shut a reservoir to build up storage.
5. Refer to item 4 above.
6. No, there is no water being diverted to any other reservoir. Phoenix 2 has its own zone and it is impossible to supply any other reservoir from Phoenix 2.
7. Refer to item 6 above.

11.2 Questions submitted by Councillor F Ismail: (23/11/2023):

At the May 2022 Full Council meeting, this Council approved the levying per Account Holder, Water Infrastructure Surcharge and Sanitation Infrastructure Surcharge at R1.50 per kilolitre, respectively. This invoked with effect from 01 July 2022 and will be in place for a period of 3 years. It is envisaged that an additional R1 Billion will be raised.

Kindly respond to the question hereunder:

1. **As at 31 March 2023, how much of the levy, Water Infrastructure Surcharge has been collected?**
2. **Provide a schedule of projects to be repaired/ improved?**
3. **The water outages in the South West areas of this Council due to the failures at the Northdene Pump Station has affected many residents and Householders?**

3.1 Is there an allocation from the Water Infrastructure Surcharge levy, made to investigate and fully repair the Northdene Pump Station?

3.1.1 If yes, how much and timeframe to have these repairs undertaken?

3.1.2 If no, why not?

4. As at 31 March 2023, how much of the levy, Sanitation Infrastructure Surcharge had been collected?

5. Please provide a schedule of projects to be repaired/ improved.

Councillor BV Mngwengwe provided the following respective responses:

1.

	Amount Billed	Cash collected.
Water:	R176,288,460.98	R107,943,323.57
2. The cash collected has not yet been allocated to specific projects but will be used to upgrade treatment works in the main and other critical infrastructure.
3. There have not been any significant Mechanical and Electrical failures at the Northdene 3 Reservoir pump stations recently, except for an electricity supply issue which falls within the ambit of Durban Electricity.
- 3.1 The Infrastructure Surcharge is ring-fenced as a Capital amount and as such, is not able to be utilised for “repairs and maintenance” which are funded from the Opex budget – I only mention this for the sake of clarity.
- 3.1.1 From an M&E perspective, the current status of the Northdene 3 Pump Stations are as follows:

Pumping system to Shallcross/Chatsworth 4:

- Redundancy is available in the form of 1 standby pump/motor which is functional, along with the duty pumpset.
- A third pump is currently being repaired and is expected to be completed in 6 weeks.
- A third motor shall be procured using project X8416 in the 24/25 financial year.

Pumping system to Firwood:

- Two duty pumpsets are operational.
- Both pumps are used to meet the required demand, which makes planned maintenance difficult.

- A third pump is currently being ordered via our internal non-stock process - awaiting quotations and lead-time.
- There is a functional upgrade proposed in the 24/25FY which is tentative at the moment, pending unbundling of the blocksum in the next MTREF.
- In terms of the generator for these sites – assessments are ongoing and Northdene 3 has been included in the proposed section 36 contract which is currently being finalised. The initial budget estimates are prohibitive due to the magnitude of the generator required.

3.1.2 Also note that all maintenance activities for the M&E infrastructure are catered for from the active maintenance contract WS7156.

4. **Amount Billed Cash collected.**

Sanitation: R123,955,231.30 R70,813,223.60

5. The cash collected has not yet been allocated to specific projects but will be used to upgrade treatment works in the main and other critical infrastructure.

11.3 Questions submitted by Councillor J Annipen: (10/2/2 & 7/3/1/1/2):

On the 26th April 2023, 3rd May 2023 and 23rd May 2023 respectively, I requested Chief Financial Officer (CFO), Mr Sandile Mnguni, the following information regarding the City's borrowing and spend patterns for capital projects as well as information regarding RMS.

By the time of sending this correspondence the CFO has not responded to the emails dated above.

In lieu of this withholding of information and in the interest of good governance and transparency, I pose the following questions:

1. **The billing system used by the City, known as Revenue Management System (RMS) came into effect in or around August 2016. What was the total cost (to the ratepayer) to have this system?**
2. **Has the City undertaken an assessment into the system effectiveness, shortcoming and feasibility since the system was activated?**
3. **Since the 2016/17 financial year to date, how many loans has the City successfully applied for and from which lending agencies have these loans been supplied?**
4. **How much have we paid per financial year to service the total debt owed by the City for these loans specifically? Please tabulate a breakdown of loans and repayments per financial year.**
5. **What are the City's monthly repayments to service these loans (Please provide a detailed breakdown)?**

6. Please provide a detailed breakdown of all capital projects which have been funded by these loans and detail how many of these projects have been completed using these funds?

Councillor SK Mzimela provided the following respective responses:

1. The total capital cost of the Revenue Management System (RMS) as per the fixed asset register amounts to R 698 639 646.
2. Several reviews were conducted after implementation.
3. The information on loans is available in the Annual Financial Statements.

Financial statements	2022/23 Interim	2021/22 Annual	2020/21 Annual	2019/20 Annual	2018/19 Annual
Page reference to borrowings	<ul style="list-style-type: none"> • Finance costs – page 6 • Repayments and borrowings – Page 8 • Note 15, page 58 	<ul style="list-style-type: none"> • Finance costs – page 7 • Repayments and borrowings – Page 10 • Note 16, page 66 	<ul style="list-style-type: none"> • Finance costs – page 8 • Repayments and borrowings – Page 11 • Note 16, page 65 	<ul style="list-style-type: none"> • Finance costs – page 7 • Repayments and borrowings – Page 10 • Note 16, page 59 	<ul style="list-style-type: none"> • Finance costs – page 6 • Repayments and borrowings – Page 8 • Note 17, page 58

Loans are serviced twice a year – refer to table below for repayment amounts.

Financial Year	Lending agency	Amount (R)
2016/17	DBSA = R350 million + AFD = R350 million	700,000,000
2017/18		
2018/19	NEDBANK R 1bn + R1bn	2,000,000,000
2019/20		
2020/21	ABSA = R500 million + DBSA R1 billion	1,500,000,000
2021/22	R500 million ETK001 + R500 million ETK002 (Bonds)	1,000,000,000
2022/23	DBSA R1.5 billion	1,500,000,000

Financial year	LOAN REPAYMENTS		
	Interest Paid	Capital Redemption	Total
2016/2017	902,811,338	1,089,034,088	1,991,845,427
2017/2018	714,622,136	774,924,353	1,489,546,488
2018/2019	803,082,642	770,141,392	1,573,224,035
2019/2020	966,323,584	951,484,940	1,917,808,525
2020/2021	789,484,873	805,162,958	1,594,647,831
2021/2022	870,267,106	807,673,720	1,677,940,826
2022/2023	906,243,308	866,800,126	1,773,043,433

4. Same as above.

5. Same as above.

6. The detailed breakdown of the Capital projects which have been funded by loans is available in each of the year's budget books. Loans are used to fund projects in various department including infrastructure and trading services. Information requests on completed projects should be directed to the relevant departments.

Budget Book	2022/23	2021/22	2020/21	2019/20	2018/19
Page reference to project listing	Detailed capital budget – Page 314 - 355	Detailed capital budget – Page 331 - 350	Detailed capital budget – Page 293 - 323	Detailed capital budget – Page 303 - 345	Detailed capital budget – Page 278 - 311
Loan funded Project listing	Annexure A	Annexure B	Annexure C	Annexure D	Annexure E

11.4 Questions submitted by Councillor AAK Paruk: Moorton Community Hall (33/2):

The Moorton Community Hall has been for a considerable number of years. In view of this I pose the following questions.

- 1. Why is the hall closed?**
- 2. Was an insurance claim submitted?**
- 3. What monies was paid to the contractor?**
- 4. Why did the contractor abscond from site?**
- 5. What is the present status of the hall?**

Councillor CN Sisoka provided the following respective responses:

1. The hall was vandalized after it had housed flood victims around 2014, after the flood victims vacated the hall was not safe and thus had to be closed.
2. Yes, an insurance claim was submitted to our internal insurance section.
3. The City had budgeted a block sum for community halls in 2019/2020, this hall was part of Region 4 Halls, Consultants were appointed to package the project however, the project was unable to be funded due to shortage of funding at the time.
4. No contractor was appointed.
5. The Hall remains inhabitable and closed, the refurbishment of this hall may be considered in the out years i.e Financial Year 2025/2026.

11.5 Questions submitted by Councillor E Smith: (21/7/R):

With the issue of illegal usage of municipal facilities such as sidewalks, open land parks as well as other spaces located in the eThekweni Municipality for various purposes such as that of the illegal carwash located on Erf 1 Old Greyville Tennis

Courts in Morningside & Illegal 12m container located on Earl Haig Road, Puntans Hills.

1. **Has the Municipality got a list of “offenders” across the municipality who have violated the by-laws of the City for erecting structures which business ventures operate from yet have not followed due process for business licenses and site approval?**
2. **If so, how many offenders have been prosecuted accordingly over the last 12 months?**
3. **How many of these incidents are repeat offenders the city is currently processing?**
4. **Kindly provide a list of the locations which are currently being dealt with as well as what the by-law violation is.**
5. **Kindly provide a list of the locations by area which are continuously problematic for by-law enforcement by Metro Police?**
6. **When did the Municipality first become aware of the illegal carwash business occupying Municipal property of Erf 1 Old Greyville Tennis Courts (Morningside) without the proper authorization, paperwork or lease agreements?**
7. **Has the Municipality approved this carwash to operate on Erf Old Greyville Tennis Courts?**
8. **What action has been taken to date to deal with illegal carwash on Erf 1 Old Greyville Tennis Courts and which departments is currently handling the issue?**
9. **What is the standard turnaround time for the Municipality to deal with illegal occupation of Municipal land, properties as well as to take legal action against the parties concerned?**
10. **When did the Municipality or any of its departments approve this container to operate without a business license?**
11. **Did the Municipality or any of its departments approve this container to operate without a business license?**
12. **What action – to date has been taken against the owner of this grey 12m container?**
13. **Why has the department(s) involved not removed this container 12 months after the fact?**

Councillor T Sabelo provided the following respective responses:

1. The Unit has the list of offenders for the erection of unapproved structures based on the fines issued in terms of the Informal Trade Bylaws.
2. The Metro Police Unit issued forty -three (43) charges for the erection of unapproved structures (In terms of the Informal Trade Bylaws) during the past 12 months.
3. Two (02) repeat offenders have been identified.
4. The areas are various, mainly CBD, North Coast, and South Coast with the current location in the central Suburbs at Morningside.
5. CBD and Isipingo.
6. Although Metro Police was informed about the Tennis Court, the Unit was also informed that authority was granted for the place to be utilized by the Unit owning the building.
7. During the visit to the Car Wash, Metro Police established that the person did not have the permit to operate the Car Wash as outlined in the EThekweni Municipality Informal Trading Bylaws.
8. The person in charge of the Car Wash was warned about the illegality of his business and instructed to discontinue. The Metro Police also visited the premises again and impounded the goods used to perform the business after warning the person that owns the car wash as no one was found on the premises.
9. All complaints are dealt with immediately as soon as they are received.
10. February 2023
11. The containers' operations in the Municipality space are regulated by the Informal Trade department and Metro Police enforces the transgressions. There is no business licence issued. Joint inspection was conducted by Metro Police and BSU-Informal Trade officials where it was discovered that the container is placed but not operating and it cannot be approved because 12-meter container is not allowed, as per Council approved Container Policy, we can confirm that no application has been received.
12. The Unit has been liaising with other sister departments responsible for the issuing of permits and Land Use to ascertain the reason for the container to be there since the owner could not be reached to get answers whether he has the permit to put the container in the area or not.
13. Metro Police has been trying for the past months to identify the owner of the container so that the container can be removed, this is to avoid litigation if there are delicate items inside that can be damaged in the process.

In October 2019 to January 2020 the Province experienced several tornadoes which caused devastating impact during these periods, eThekweni Municipality was among the most affected. eThekweni Municipality applied for Emergency Housing Grant direct to National Disaster Management Center received, an amount of R90 810 000.00 direct from National for the April 2019 storm disaster.

Considering the above, I posed the following questions:

- 1. What happened to the 2019 flood relief funds, how many people benefited?**
 - 1.1 How many names did you get from Disaster Management?**
 - 1.2 How many allocated to transit Camp?**
- 2. Who was awarded the contract to build this transit camp?**
 - 2.1 How much are they getting paid Transit Camp?**
- 3. What has happened to the other flood victims across eThekweni who also lost their homes?**
- 4. Are all flood victims dumped in the camp or should I say housed in Transit Camp?**
- 5. Throughout eThekweni how many people were affected?**
- 6. How many were dumped in Transit Camp?**
- 7. How many are left stranded?**
- 8. How much was spent to accommodate the victims Transit Camp?**

Councillor BV Mngwengwe provided the following respective responses:

1. The storm 2019 has been implemented in two (02) phases. We have built 315 houses under Phase 1. For Phase 2 which is still at implementation stage, we have built 313 houses to date.
 - 1.1 2130 names were received from Disaster Management.
 - 1.2 609 families were allocated to TRUs (Temporary Residential Units)
2. Three service providers were appointed to build TRUs:
 - a) Taurius Gardens Trading 500 (Pty) Ltd.
 - b) Brackeley Investments
 - c) Atur Tradings
- 2.1 Each service provider has been appointed to build a single-family unit at an amount of R56, 744.46 per TRU.

3. Various programs within Human Settlements were utilised to respond to the families affected by various floods, i.e., from 2019 floods to April 2022 floods as well as June 2023 floods. The department is currently implementing the 2nd Phase of Storm 2019 which is under construction.

For April 2022 flood victims, the department supplied building material for families that were left destitute but could still rebuild in the respective areas, and Provincial Department of Human Settlements (PDHS) also provided TRUs. For those families that were in flood -prone areas, they were relocated to Temporary Emergency Accommodation (TEAs).

4. No.
5. Approximately, 8000 families were reportedly affected by the April 2022 floods.
6. None.
7. All cases reported are being attended to. Plans for intervention are being put together.
8. The City did not have a budget for the TRUs. The TRUs were implemented by Provincial Department of Human Settlements.

11.6 Questions submitted by Councillor KV Mkhize: _____ ():

Background

Questions about the destroyed KwaSishi Community Hall in Mpumalanga Township were submitted to this Council in August 2017 and again in March 2019. The hall was destroyed in 2014/2015 financial year. The estimated cost of repairs from the Architectural Department were still awaited. An insurance claim was not submitted, as the official in charge at that time omitted to submit the claim. Repairs and renovations were going to commence once the Parks, Recreation and Culture capital office allocated the necessary funds.

Currently, condition of the hall has deteriorated.

In light of the above, I pose the following questions:

1. **Does the Municipality intend effecting the repairs on this much needed community hall?**
 - (a) **If yes, when and what action has been taken to do so?**
 - (b) **If no, why not?**
2. **Why has this process been delayed for so many years?**
3. **What plans is the Municipality making to assist the community in the absence of this infrastructure?**

4. **How many other community halls are in a state of disrepair in the Municipality?**
5. **Are there plans to repair and maintain these halls?**

Councillor WM Mazibuko provided the following respective responses:

1. Yes,
 - (a) the Municipality does intend repairing this Hall subject to the availability of Capital funding. This facility is on the worst condition assets and currently falls under category 2 awaiting capital funding.
2. There has been a general scarcity of capital finding with the competing interests of the City's projects, we have been unable to fund the refurbishments of this facility.
3. The District is maintaining the other Halls in Mpumalanga and is making these facilities available to the community for use.
4. The Parks, Leisure and Cemeteries Department currently has 05 halls
(Bottlebrush, Sub 5 Community Hall, KwaDabeka K Hall, Nlkhizwane Community Hall, Newtown A Hall), that are not habitable due to renovations that have not been completed at these facilities as part of the region 1 project that stalled. There is also Moorton and KwaSishi Halls that are currently not habitable making this figure 07.
5. The region 1 halls are all budgeted for and are on the budget for the 2023/2024 financial year with the exception of Moorton Hall which did not form part of Region I Projects.

12. **REPORTS:**

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

FIRST REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2023-08-08)

- PRESENT :** Executive Committee Members TM Kaunda (Mayor and Chairperson), ZP Myeni (Deputy Mayor), A Beetge, Y Govender, NI Madlala, TM Mthethwa, OB Mvubu, MS Nkosi and BT Ntuli
- ABSENT :** Executive Committee Member ZR Sokhabase (Leave- Personal Commitments)
-

1. REPORT OF THE FINANCE COMMITTEE: MEETING HELD 2023-07-19.

(Page R1)

1.1 Noting of Reasons to Amend Contract S5171 in terms of Section 116 (3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, for the Supply and Delivery of Paint and Allied Products for a Period of 36 Months (26/1/2/2):
(Page 14: Finance Committee - Agenda 2023-07-19)

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 to allow for the adjustment of existing awarded Contract S5171 for Supply and Delivery of Paint and Allied Products for a period of 36 months. The adjustment relates to the existing awarded Unit price to proposed price in relation to the Force Majeure issued by the Manufacture relating to increase on imported new material and global uncertainties.

The Supply Chain Management (SCM) Unit has been assigned to have a contract in place for Line Departments, including Roads and Stormwater, eThekweni Transport Authority and Parks, Recreation and Culture Departments for the supply and delivery of paint and allied through the requisition through SCM stores, as the item is a stock item. The City has a significant number of depots around different zones within the Municipality that are responsible for ensuring the improvement of striping and marking on the higher volume roads and intersections.

The Transportation and Engineering Division contracts out the striping and markings of certain locations each year. This project and continuous provision of paint not only enhances the traffic safety and operations of roads for the users of those roads, it also reduces the potentially hazardous work zone situations for the Transportation and Engineering Division's striping crew. They represent rules that are in place to keep one safe and help to communicate messages to drivers and pedestrians that can maintain order and reduce accidents. Neglecting them can be dangerous. The Municipality has a commitment to ensure that all roads city wide are clearly marked and visible.

The awarded Supplier has written to the Municipality requesting for the price increase following the issues surrounding the industry as they pertained to increase in production costs on imported raw materials, global uncertainties, weakening of the currency, fuel, labour, and other fixed costs. Also, as part of the background information, the following salient features of the report were noted:

- (i) The contract was advertised on the 29 November 2019 and closed on 17 January 2020. Contract S5171 for the Supply and Delivery of Paint and Allied Products was awarded to Prostar Paints Pty Limited for a period of 36 months ending 05 July 2025. This an Engineering and Operations contract which covers all depots/zones such as Road Maintenance, Roads Provision and eThekweni Transport Authority.
- (ii) Approved Special condition of tender (SCC17) states that "Prices are fixed for the duration of contract" however due to the ongoing cost pressure, increase in raw material, increase imported goods, the supplier could not hold the awarded prices. With reference to the letter from the supplier, there has been a 11.33% in 2020 to 17.95% increase in the raw materials.

This request is also coupled with the post Covid pandemic effects which resulted in further increases in freight cost and global shortages having further exacerbated the supplier's financial problem.

- (iii) That clause SCC 17 of the existing contracts be amended to read as "Price adjustments shall be substantiated by a letter of suppliers of raw material, increase in import cost from the Paint making manufacturers 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".
- (iv) Awarded Supplier be paid back for price variation of all orders delivered for the Quantities supplied to the Municipality stores for proposed year one cost.

It being further noted that the Paint Raw Material Suppliers has issued price increases last year in 2021/2022 during the evaluation and tender award as follows:

1. **Paint And Allied Products Percentage Increase:**

SUPPLIER PRICE INCREASE OVER A 3 YEAR PERIOD			YEAR		
Supplier	Type of Material	Item Number	2020	2021	2022
Servochem	Additives	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	4.17%	11.56%	18.80%
Idwala	Fillers	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	25.24%	26.18%	27.03%
Swift	Solvents	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	7.50%	7.80%	8.20%
KZN Resins	Binders	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	16.40%	15.38%	27.50%
Pail Pac	Packaging	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	6%	6.30%	6.90%
ICC	Pigments	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	8%	9.00%	10%
Safrapol	Packaging	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	4.69%	-	-
Koogan's Plastic	Packaging	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	4.80%	6.00%	6.40%
Sancryl	Binders	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	9%	18.00%	20%
Cathay	Fillers & Additives	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	6%	8.00%	15%
Titanium Dioxide	Pigments	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	6%	9.00%	12.30%
Back to Pack	Packaging	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51	-	-	3%
Hamilton's	Brushware	31, 32, 33, 34, 35	7%	9.00%	14%
	Fuel		18%	21.50%	24.22%
	Operating Cost		35.80%	47.92%	58%
Total percentage increase per year			158.60%	195.64%	251.35%
Average increase per year			11.33%	15.05%	17.95%

2. Proposed Percentage and Price Increase for Year 1, 2 and 3:

NO	DESCRIPTION	AWARDED RATES			PROPOSED RATES		
		Unit Price - Year 1 (excl. VAT)	Unit Price - Year 2 (excl. VAT)	Unit Price - Year 3 (excl. VAT)	Unit Price - Year 1 (excl. VAT) with average increase of 11.33%	Unit Price - Year 2 (excl. VAT) with average increase of 15.05%	Unit Price - Year 3 (excl. VAT)2 with average increase of 17.95%
01	Yellow High Gloss (Super Universal)	320.00	345.60	373.25	356.26	397.61	440.25
02	Golden yellow coat/Aquado or Suitable Equivalent	420.00	453.60	489.89	467.59	521.87	577.83
03	Grey high Gloss (super universal)	320.00	345.60	373.25	356.26	397.61	440.25
04	Green high Gloss (super universal)	320.00	345.60	373.25	356.26	397.61	440.25
05	Green high Gloss (super universal)	320.00	345.60	373.25	356.26	397.61	440.25
06	Forest Green Protectorate or suitable equivalent	420.00	453.60	489.89	467.59	521.87	577.83
07	White High Gloss (super universal)	320.00	345.60	373.25	356.26	397.61	440.25
08	Orient Ivory / Taffy Tint High Gloss (Super Orient)	320.00	345.60	373.25	356.26	397.61	440.25
09	Blue Arctic High Gloss (Super Universal)	320.00	345.60	373.25	356.26	397.61	440.25
10	Red High Gloss (super Universal)	320.00	345.60	373.25	356.26	397.61	440.25
11	Red High Gloss (super universal)	100.00	108.00	116.64	111.33	124.25	137.58
12	Undercoat white solvent based universal	225.00	243.00	262.44	250.49	279.57	309.55
13	White emulsion- exterior Purposes (super Acrylic)	240.00	259.00	279.94	267.19	297.98	330.19
14	White spirit (mineral tuperntine)	170.00	183.60	198.29	189.26	211.23	233.88
15	Stoep green	420.00	453.60	483.89	467.59	521.87	570.75
16	Stoep red	420.00	453.60	483.89	467.59	521.87	570.75
17	Cream/Orient ivory PVA (Super Acrylic)	240.00	259.20	279.94	267.19	298.21	330.19
18	Yatch or marine varnish Exterior woodwork, Brush application (clear)	320.00	345.60	373.25	356.26	397.61	440.25
19	Silver high gloss	240.00	453.60	489.89	267.19	521.87	577.83
20	Black high Gloss (super universal)	320.00	345.60	373.25	356.26	397.61	440.25
21	Black high Gloss (super universal)	55.00	59.40	64.15	61.23	68.34	75.66

NO	DESCRIPTION	AWARDED RATES			PROPOSED RATES		
		Unit Price - Year 1 (excl. VAT)	Unit Price - Year 2 (excl. VAT)	Unit Price - Year 3 (excl. VAT)	Unit Price - Year 1 (excl. VAT) with average increase of 11.33%	Unit Price - Year 2 (excl. VAT) with average increase of 15.05%	Unit Price - Year 3 (excl. VAT)2 with average increase of 17.95%
22	Prime etch Red Oxide	250.00	270.00	291.60	278.33	310.64	343.94
23	Thinners Universal- (tin container)	170.00	183.60	198.29	189.26	211.23	233.88
24	Reducer universal for road marking (tin container)	190.00	205.20	221.62	211.53	236.08	261.40
25	Brush cleaner	75.00	81.00	87.48	83.50	93.19	103.18
26	Paint Remover Heavy Duty	60.00	64.80	69.98	66.80	74.55	82.54
27	White undercoat water based for all surfaces	200.00	216.00	233.28	222.66	248.51	275.15
28	field marking white Paint	290.00	313.20	338.26	322.86	360.34	398.98
29	PVA white double velvet Paint	380.00	410.40	443.23	423.05	472.17	522.79
30	PVA Pale Parchment Light Double Velvet Paint	380.00	410.40	443.23	423.05	472.17	522.79
31	Brush Paint Pro flow or suitable equipment	10.45	21.60	23.33	11.63	24.85	27.52
32	Brush Paint Pro flow or suitable equipment	28.50	35.64	38.49	31.73	41.00	45.40
33	Brush Paint Pro flow or suitable equipment	48.25	64.80	69.98	53.72	74.55	82.54
34	Brush Paint Pro flow or suitable equipment	72.56	86.40	93.31	80.78	99.40	110.06
35	Brush Paint Pro flow or suitable equipment	20.43	24.84	26.83	22.74	28.58	31.65
36	Self-etching Primer colour black	250.00	270.00	291.60	278.33	310.64	343.94
37	Paint yellow road marking	250.00	270.00	291.60	278.33	310.64	343.94
38	Peble grey low sheen RAL 7032	1200.00	1296.00	1399.68	1335.96	1491.05	1650.92
39	Light grey Luxurious silk/double velvet or similar EPL 314	1200.00	1296.00	1399.68	1335.96	1491.05	1650.92
40	Pure white RAL 9010	1200.00	1296.00	1399.68	1335.96	1491.05	1650.92
41	Broken white luxurious silk/double velvet or similar EPL 314	1200.00	1296.00	1399.68	1335.96	1491.05	1650.92
42	Signal Orange low sheen RAL 2010	1500.00	1620.00	1749.60	1669.95	1863.81	2063.65
43	Light green pearl Glo-non drip RAL 6027	1500.00	1620.00	1749.60	1669.95	1863.81	2063.65

NO	DESCRIPTION	AWARDED RATES			PROPOSED RATES		
		Unit Price - Year 1 (excl. VAT)	Unit Price - Year 2 (excl. VAT)	Unit Price - Year 3 (excl. VAT)	Unit Price - Year 1 (excl. VAT) with average increase of 11.33%	Unit Price - Year 2 (excl. VAT) with average increase of 15.05%	Unit Price - Year 3 (excl. VAT)2 with average increase of 17.95%
44	May Green pearl Glo-non Drip RAL 6017	1500.00	1620.00	1749.60	1669.95	1863.81	2063.65
45	Vomitry grey low sheen (to Match)	1200.00	1296.00	1399.68	1335.96	1491.05	1650.92
46	Pastel Blue Pearl Glo- RAL 5024	1500.00	1620.00	1749.60	1669.95	1863.81	2063.65
47	Smoke grey pearl Glo RAL 7035	1600.00	1728.00	1866.24	1781.28	1988.06	2201.23
48	Dark grey pearl Glo (Solvent Based)	1600.00	1728.00	1866.24	1781.28	1988.06	2201.23
49	Special Grey low sheen for gold business clubs (to match)	1200.00	1296.00	1399.68	1335.96	1491.05	1650.92
50	Marmoran Cream low sheen (to match)	1200.00	1296.00	1399.68	1335.96	1491.05	1650.92
51	Stadium Grey (Doors) RAL 7021	350.00	378.00	408.24	389.66	434.89	481.52

Whilst noting the item, since the powers of the Executive Committee and the Council are confined to noting the reasons for the contract amendment, and with the Bid Adjudication Committee to then deal with the relevant technicalities, the following issues were raised in this regard:

- That confirmation of global uncertainties resulting into price increases be submitted.
- Confirmation given that the tender relates to the supply and delivery of paints and with the internal resources to be utilised to undertake the paint work.

In response to bullet 1, a letter from the service provider is attached herein to confirm price increases as a result of shifting global economy.

On this basis,

COMMITTEE RECOMMENDS:

1.1.1

That Council notes the following reasons necessitating the amendment of Contract S5171, 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 Paint and Allied Products for a period of thirty-six (36) months:

- Force Majeure relating to the impact on supply of paint and allied products due to global uncertainties,
- Increase on imported raw materials
- fuel increases and labour cost.
- weakening of the currency and other fixed cost

1.1.2

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 Paint and Allied Products will be provided in the operational budget to cater for all user departments. The details of the current Contract S5171, including Unit Rates, and the proposed rates for the Section 116 (3) authorisation is shown above as per Section 4 in the report of the Acting Head: Supply Chain Management dated 2023-04-12.

Below are the proposed amended unit rates per item for year 1 to 3:

No.	Description	Unit of Measure	Estimated Quantity	Proposed Rates		
				Unit Price - Year 1 (excl. VAT) with average increase of 11.33%	Unit Price - Year 2 (excl. VAT) with average increase of 15.05%	Unit Price - Year 3 (excl. VAT) 2 with average increase of 17.95%
01	Yellow High Gloss (Super Universal)	5 Litre	1339	356.26	397.61	440.25
02	Golden yellow coat/Aquado or Suitable Equivalent	5 Litre	753	467.59	521.87	577.83
03	Grey high Gloss (super universal)	5 Litre	100	356.26	397.61	440.25
04	Green high Gloss (super universal)	5 Litre	75	356.26	397.61	440.25
05	Green high Gloss (super universal)	5 Litre	26	356.26	397.61	440.25
06	Forest Green Protectorate or suitable equivalent	5 Litre	690	467.59	521.87	577.83
07	White High Gloss (super universal)	5 Litre	515	356.26	397.61	440.25
08	Orient Ivory / Taffy Tint High Gloss (Super Orient)	5 Litre	75	356.26	397.61	440.25
09	Blue Arctic High Gloss (Super Universal)	5 Litre	645	356.26	397.61	440.25
10	Red High Gloss (super Universal)	5 Litre	482	356.26	397.61	440.25
11	Red High Gloss (super universal)	5 Litre	21	111.33	124.25	137.58
12	Undercoat white solvent based universal	5 Litre	895	250.49	279.57	309.55
13	White emulsion- exterior Purposes (super Acrylic)	5 Litre	850	267.19	297.98	330.19
14	White spirit (mineral tupermtine)	5 Litre	312	189.26	211.23	233.88
15	Stoep green	5 Litre	291	467.59	521.87	570.75

No.	Description	Unit of Measure	Estimated Quantity	Proposed Rates		
				Unit Price - Year 1 (excl. VAT) with average increase of 11.33%	Unit Price - Year 2 (excl. VAT) with average increase of 15.05%	Unit Price - Year 3 (excl. VAT) 2 with average increase of 17.95%
16	Stoep red	5 Litre	40	467.59	521.87	570.75
17	Cream/Orient ivory PVA (Super Acrylic)	5 Litre	50	267.19	298.21	330.19
18	Yatch or marine varnish Exterior woodwork, Brush application (clear)	5 Litre	50	356.26	397.61	440.25
19	Silver high gloss	5 Litre	171	267.19	521.87	577.83
20	Black high Gloss (super universal)	5 Litre	830	356.26	397.61	440.25
21	Black high Gloss (super universal)	5 Litre	54	61.23	68.34	75.66
22	Prime etch Red Oxide	5 Litre	200	278.33	310.64	343.94
23	Thinners Universal- (tin container)	5 Litre	400	189.26	211.23	233.88
24	Reducer universal for road marking (tin container)	5 Litre	400	211.53	236.08	261.40
25	Brush cleaner	500ml	200	83.50	93.19	103.18
26	Paint Remover Heavy Duty	1 Litre	60	66.80	74.55	82.54
27	White undercoat water based for all surfaces	5 Litre	60	222.66	248.51	275.15
28	field marking white Paint	10 Litre	830	322.86	360.34	398.98
29	PVA white double velvet Paint	5 Litre	1900	423.05	472.17	522.79
30	PVA Pale Parchment Light Double Velvet Paint	5 Litre	1900	423.05	472.17	522.79
31	Brush Paint Pro flow or suitable equipment	25mm	504	11.63	24.85	27.52
32	Brush Paint Pro flow or suitable equipment	50mm	977	31.73	41.00	45.40
33	Brush Paint Pro flow or suitable equipment	75mm	823	53.72	74.55	82.54
34	Brush Paint Pro flow or suitable equipment	100mm	568	80.78	99.40	110.06
35	Brush Paint Pro flow or suitable equipment	38mm	72	22.74	28.58	31.65
36	Self-etching Primer colour black	5 Litre	120	278.33	310.64	343.94
37	Paint yellow road marking	5 Litre	357	278.33	310.64	343.94
38	Peble grey low sheen RAL 7032	20 Litre	20	1335.96	1491.05	1650.92

No.	Description	Unit of Measure	Estimated Quantity	Proposed Rates		
				Unit Price - Year 1 (excl. VAT) with average increase of 11.33%	Unit Price - Year 2 (excl. VAT) with average increase of 15.05%	Unit Price - Year 3 (excl. VAT) 2 with average increase of 17.95%
39	Light grey Luxurious silk/double velvet or similar EPL 314	20 Litre	30	1335.96	1491.05	1650.92
40	Pure white RAL 9010	20 Litre	50	1335.96	1491.05	1650.92
41	Broken white luxurious silk/double velvet or similar EPL 314	20 Litre	30	1335.96	1491.05	1650.92
42	Signal Orange low sheen RAL 2010	20 Litre	50	1669.95	1863.81	2063.65
43	Light green pearl Glo-non drip RAL 6027	20 Litre	20	1669.95	1863.81	2063.65
44	May Green pearl Glo-non-Drip RAL 6017	20 Litre	20	1669.95	1863.81	2063.65
45	Vomitry grey low sheen (to Match)	20 Litre	30	1335.96	1491.05	1650.92
46	Pastel Blue Pearl Glo- RAL 5024	20 Litre	15	1669.95	1863.81	2063.65
47	Smoke grey pearl Glo RAL 7035	20 Litre	12	1781.28	1988.06	2201.23
48	Dark grey pearl Glo (Solvent Based)	20 Litre	12	1781.28	1988.06	2201.23
49	Special Grey low sheen for gold business clubs (to match)	20 Litre	20	1335.96	1491.05	1650.92
50	Marmoran Cream low sheen (to match)	20 Litre	20	1335.96	1491.05	1650.92
51	Stadium Grey (Doors) RAL 7021	5 Litre	20	389.66	434.89	481.52

Commenting on the matter, the IFP acknowledged that global uncertainties, increase on imported raw materials, fuel increases and labour cost as well as weakening of the currency and other fixed cost had resulted into contract price increases being discussed. However, they expressed concern that the amounts to be paid back for price variation of all orders delivered for the quantities supplied to the Municipality for proposed year one was not reflected on the report. They further mentioned that contract durations and costs thereof had to be adhered to, indication given that non-adherence to such terms and conditions, might open doors for other contractors to also approach the Municipality for the amendment of contract prices.

The ADEC also cited that the Municipality should accept that foreign and international factors, including imported goods and services, will impact domestic goods and contracts, and that this was currently unavoidable. That in future contracts should take into account price fluctuations and other potential factors to impact negatively on the contracts in place.

Thereafter, the ANC noted the report and indicated that unfortunate circumstances occurred, which were experienced globally and inevitable, reference being made to the Covid-19 pandemic. They reiterated that the contract in question was awarded in 2019 for a period of thirty (36) months, prior to the pandemic. That the proposed percentage increases are clearly reflected in the table above and that necessary processes have been followed in line with the provisions of the MFMA.

Accordingly, the above recommendations of the Executive Committee were **NOTED**, *with the APF, ATM and IFP abstaining*.

1.2 Public Tender Awards of eThekweni Municipality for the Month Ended: 30 June 2023 (9/1/3):
(Page 56: Finance Committee - Agenda 2023-07-19)

The Committee noted that the amount of R915 032 700.80 (Nine Hundred and Fifteen Million and Thirty-Two Thousand Seven Hundred and Eighty Cent) was the total value of tenders issued during the month of June 2023.

During consideration, reservations were expressed in respect of Section 36 tender awards, which was reported to be 65,4% of the total value of tenders issued in the month of June; with City Fleet and Durban Solid Waste Units being cited as the highest in terms of the usage of Section 36 breakdown per Units during the 2022/2023 financial year. A view being submitted that most reported unauthorised, irregular, and fruitless expenditure derives from the application of Section 36; therefore, the aforesaid Section is to be utilized only for emergency purposes.

However, indication was given that Section 36 awards were utilised in instances where there were delays in finalisation of the normal tender process, while the Municipality has an obligation to continuously provide services. Upon an enquiry on the repetition of some Company names on the list of appointed businesses, clarity was given that this was due to their appointment being under sub-contracting arrangements as the main service provider.

Accordingly,

COMMITTEE RECOMMENDS:

- 1.2.1 That the public tender awards by the City for the month of June 2023, inclusive of awards made in terms of Section 36 of the Supply Chain Management Policy, as contained in the report by the Acting Head: Supply Chain Management dated 2023-07-11, be noted.
- 1.2.2 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.
- 1.2.3 That the Finance Committee calls for additional information on individual awards, where it deems appropriate and necessary to play its oversight role.
- 1.2.4 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.

- 1.2.5 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.

During consideration, some Councillors requested that investigations be conducted as the increase of Section 36 awards to 65.4% of the total tenders awarded during the month under review is considered extreme and with suspicions of tender abuse given that Section 36 caters mainly for emergency work. Reference being also made to the fact that apparently similar companies have been awarded tenders.

It was then reiterated that proper process was followed to approve the utilization of Section 36 and unpacking the reasons associated therewith. That, a need exists to create a balance between achieving compliance and rendering the service urgently required by the Committee. That, with the City facing numerous challenges and the delays sometimes experienced in finalizing long-term contracts, the Municipality has no option but to tap into the Section 36 awards to consistently deliver services to the local communities.

Thereafter, the above recommendations of the Executive Committee were, NOTED.

- 1.3 Budget Statement Report for the Quarter Ended 30 June 2023 (7/1/4):
(Page 184: Finance Committee - Agenda 2023-07-19)

In giving an overview, the Deputy City Manager: Finance took the meeting through the salient features of the report relative to the actual operating revenue of 102% of the year-to-date budget, with a variance of 2%. The actual operating expenditure reported as a percentage of year-to-date budget figure is 97% with a variance of -3%. The reported preliminary capital spent including accruals (invoices to be paid) is R5 094 000 000.00 (Five Billion and Ninety-Four Million Rand) which is 83% when compared to budgets with a variance of -17%. Emphasis being made that the final figures for the 2022/2023 financial year will be reflected on the Annual Report. A cash collection of 93.56% as at the end of June 2023 was reported, and lower when compared to the same period in the previous year (95%).

The attention of the Committee was drawn to a slow pace in implementing Catalytic projects, which was viewed as a setback to the much-needed investment, reference being made to the delays in finalising Durban Iconic Tower. Reservations were expressed regarding the escalating water losses, which was reported to be 57, 98 %; it being cited that 40% thereof was because of the ageing infrastructure, which no longer have a capacity to handle the bulk water supplied by Umngeni Water. Concerns were also expressed about total debtors reported to be R25 Billion to date. Mention being made that there was no accountability or political will to resolve these matters.

Thereafter, information was given that several Ratepayers Associations have confronted the Municipality citing the new tariff increases as unaffordable and subsequently submitted a dispute to the Municipality in this regard. Clarity being given that the Municipality will follow all relevant policies and guidelines including the Local Government: Municipal Finance Management Act No. 56 of 2003;

Municipal By-Laws etc. to attend to the matter. Also, that the Municipality has approached the National Government for funding assistance to attend to the damaged and ageing infrastructure. It being further noted that engagements between the Municipality, and the Provincial Departments of Education and Public Works in terms of infrastructural repairs (water pipes) in Section 21 schools were ongoing. On the other hand, upon an enquiry on the availability of the top funding for the recently approved EPWP incentive grant from the Department of Public Works, assurance was given that savings will be identified during the adjustment budget to be undertaken during the financial year.

Accordingly,

COMMITTEE RECOMMENDS:

- 1.3.1 That the Budget Statement report for the month ended 2023-06-30 and the supporting documents, submitted by the City Manager as per his report dated 2023-07-14, in compliance with Section 71 and Section 52 (d) of the Local Government 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.
- 1.3.2 That in compliance with Section 32(2) of the Local Government Municipal Finance Management Act, Council notes the Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFWE) incurred during the month of June 2023 as detailed on section 10 of the Budget Statement Report.
- 1.3.3 That Council refers the UIFWE 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.

Speaking on the matter, the DA submitted that ratepayers are dismayed at the deteriorating state of Municipal services. Reference being made to 58% water losses; exacerbated by ageing infrastructure and poor maintenance thereof. That sewer spillages also remained a challenge and resulting in the closure of Municipal beaches whereas this is the main attractions for tourists. The City also faced the challenge of water leaks and burst pipes not repaired timeously. That strangely, the Municipality continued to issue inflated utility bills despite these challenges. The DA was of the view that the Municipality is failing to effectively manage its budget, citing exorbitant rates and tariffs, indication given that the increase is not commensurate with the services rendered. In this regard, emphasis being made that the relevant Departments should be hold accountable for ongoing unstable supply of services.

Also commenting on the matter, the ActionSA added that injustice was being done to ratepayers with the Municipality providing inadequate service. The Party echoed the sentiment of holding the relevant personnel accountable for water losses, also the service that does not match escalating rates.

Still on service delivery matters, the ADEC indicated the infrastructure is on a dire state and the unfortunate water loss given that this is purchased and paid for at Umngeni Water.

The ADEC was of the view that political will is required to resolve infrastructural challenges and consider lobbying the National Government for funding assistance for infrastructure upgrade and repairs.

Putting some matters into correct perspective, His Worship the Mayor acknowledged the water and sanitation challenges, confirming that National Treasury was on board to support the Municipality, starting from the collaborations made to develop and adopt Water Strategy. That the strategy is aimed at addressing major water challenges within the Municipality. With regard to water leaks, the Council was informed of plumbers allocated to assist the respective Wards. That water loss is categorised and informed by various issues, including unquantified bulk water meters from the standpipes and ablution facilities.

Confirmation was given that the Municipality works in collaboration with Umngeni Water to address water issues. The water tankers purchased by the Municipality were considered to add on solutions to address water challenges. That the Municipality has plans in place to engage ratepayers with a view to finding amicable solutions on issues of concern. At this stage, Councillors were requested to exercise cooperation to handle issues of concern in the communities. Speaking on budget spent, the attention was drawn and with the Municipality being applauded for spending 98% of Urban Settlement Development Grant allocation today and thus outperforming its counterparts in this regard.

With regard to revenue collection, it was acknowledged that the Municipality had achieved 93,5 % collection rate, and this being rated reasonable given the current global economic crisis. Assurance was then given that the financial position of the Municipality is stable, and confirmation being given for instance that the Municipal borrowings currently align with approved National Treasury norms and standards. Therefore, overall, the financial position of the Municipality was considered satisfactory.

Accordingly, the above recommendations **1.3.1 & 1.3.2** were **NOTED**, **1.3.3** being; **ADOPTED**.

- 1.4 Update on Credit Facility and Short-Term Overdraft Facility with Nedbank as at 30 June 2023 (7/8/4)
(Page 360: Finance Committee - Agenda 2023-07-19)

It was recalled that during August 2022, Council received update on credit facility and short-term overdraft facility with Nedbank; where at the time it was reported that the Accounting Officer would report back on any further updates on the facility values and utilization thereof. This report then serves to present the state of the Credit Facilities held at Nedbank as at 30 June 2023.

The Executive Committee noted that the Municipality has not been utilising its overdraft facility but that these funds are available to cater for rainy seasons. The Committee was then informed that whilst the overdraft remained unused, this would be reserved for performance guarantees when a need arises.

On this basis,

COMMITTEE RECOMMENDS:

1.4.1 That as part of annual update in compliance with the Section 45(3)(b) of the Local Government: Municipal Finance Management Act No. 56 of 2003, Council notes the value of the Credit Facilities of the eThekweni Municipality held with Nedbank remains unchanged for the duration of the 2023/2024 financial year.

1.4.2 That the Accounting Officer will report back to Council on any further changes as and when it may occur however, the Accounting Officer will provide the next update as at 30 June 2024.

Update Facilities as at 30 June 2023:

The following is the summary of the facilities and utilization over the financial period:

No.	Facility Description	Value of Facility	Utilization as at 30 June 2023
		R	R
1.	Primary Overdraft	20 000 000	Nil
2.	Performance Letter of Guarantees	170 500 000	131 457 653
3.	Letters of Credit	Nil	Nil
4.	Fleet Management	68 000	42 794
5.	Secondary Overdraft Facility	491 000 000	Nil
	Total Facility Portfolio and Usage	681 568 000	131 500 447

Notes:

The Primary Overdraft Facility is available immediately at no cost to Council. The Secondary Overdraft Facility will only be available upon application when the need arises. It must be noted that these are contingent facilities and there has been a need to utilize the primary and secondary facilities for the 2022/2023 financial year.

The facility value of R681 568 000.00 (Six Hundred and Eighty-One Million Five Hundred and Sixty-Eight Thousand Rand) has remained unchanged from the last Council decision dated 2022-08-26.

The usage on the performance letters of guarantee which has reduced from 2021/2022, includes a R117 181 653.00 (One Hundred and Seventeen Million One Hundred and Eighty One Thousand Six Hundred and Fifty Three Rand) (R155 818 632.00 – 2021/2022) Demand Guarantee issued to the Compensation Commissioner in respect of “Compensation for Occupational Injuries and Diseases” a R10 Million Guarantee issued to the South African Insurance Association to cover three (03) months water loss claims and a R4 276 000.00 (Four Million Two Hundred and Seventy Six Thousand Rand) Guarantee issued to SA Post Office.

The usage on the Fleet Management Facility represents Toll Cards utilised by vehicles from the Mayor’s Office, City Fleet, Water, Fleet and Cleansing & Solid Waste.

Speaking on the matter, the ANC reiterated that the Municipality has not been utilising its overdraft facility but that these are funds available to cater for rainy seasons. The Finance team was then commended for maintaining sound financial management and bookkeeping principles.

Therefore, the above recommendations of the Executive Committee were, NOTED.

1.5 Investment Report for the Month Ended 30 June 2023 (7/11/4):
(Page 364: Finance Committee - Agenda 2023-07-19)

The Committee noted the Municipal funds invested in different Financial Institutions are recorded to amount to R8 621 480 000.00 (Eight Billion Six Hundred and Twenty-One Million Four Hundred and Eighty Thousand Rand), at an average rate of return on investments of 8.92%. Also, that the Municipality has an overdraft facility of

R682 000 000.00 (Six Hundred and Eight Two Million Rand) and the unutilized Capital and Operational Grants as at the end of June 2023 was reported to be R2,80 000 000 000.00 (Two Comma Eighty Billion Rand). It being further noted that there was 45 (forty-five) days cash on hand excluding grants.

Accordingly,

COMMITTEE RECOMMENDS:

That the report on investments for eThekweni Municipality as at 2023-06-30, which records the total funds invested at financial institutions as R8 621 480 000.00 (Eight Billion Six Hundred and Twenty One Million Four Hundred and Eighty Thousand Rand), at an average rate of return on investment of 8,92%, as submitted by the City Manager, in line with the requirements of the Municipal Cash Management and Investment Regulation of the Local Government Municipal Finance Management Act, 2003, be noted.

Commenting on the matter, the ADEC expressed disappointment that the Municipality's cash on hand is reported to be forty-five (45) days as at the end of June 2023, citing lack of fiscal responsibility in this regard. Reference was then made to the fact that ratepayers still feel aggrieved about unmet service delivery demands and intend boycotting Municipal fees payment. The Municipal leadership was then requested to be responsive and decisive in dealing with the citizens and exercise transparency and accountability over Municipal operations.

The ANC then referred to overwhelming challenges brought about by the floods disaster of April 2022, and coupled with concerted efforts put by the Municipal leadership to restore the City within a short space of time. The ANC cited some of the successes in service delivery and drew attention to the economic disaster which nearly cost the City in the South of Durban where companies located thereat threatened to relocate their businesses and which decision could have resulted in major job losses as well as revenue generation. That the intervention by the Municipal leadership made the realise willingness by the Municipality to create conducive environment for economic development within the City.

On the issue of cash on hand, it was reported that as at the end of July, the Municipality has achieved sixty (60) days cash on hand, excluding grants, and with a total of R10,4 billion of investments, it being reiterated then that the Municipality is financially stable.

Accordingly, the above recommendations of the Executive Committee were, NOTED.

- 1.6 Quarterly Report on Withdrawals from Municipal Bank Account in terms of the Local Government: Municipal Finance Management Act 2003 dated 06 July 2023 (11/1/2):
(Page 370: Finance Committee - Agenda 2023-07-19)

COMMITTEE RECOMMENDS:

- 1.6.1 That the report on withdrawals from the Municipal bank account as at 30 June 2023, submitted in terms of Section 11(4) of the Local Government 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.

1.6.2 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 requirements.

NOTED.

2. REPORT OF THE GOVERNANCE AND HUMAN RESOURCES COMMITTEE:
MEETING HELD: 2023-07-19.

(Page R12)

2.1 Request for Authority to Host The eThekweni Municipality Service Excellence Awards (4/9):

(Page 188: Governance and Human Resources Committee - Agenda 2023-07-19)

The Committee received the report to host eThekweni Municipality Service Excellence Awards Ceremony on an annual basis to boost staff morale and improving service delivery. In motivating the proposal, it was advised that the awards ceremony will recognize and reward eThekweni Municipal employees for their outstanding performance and contribution to service delivery. Employees are nominated by fellow colleagues and members of the public. The finalists chosen by the judges would be rewarded with prizes at an awards ceremony event to be held at the Inkosi Albert Luthuli International Convention Centre and to be scheduled at suitable date to be confirmed by the Corporate and Human Capital Cluster in consultation with the Chairperson of the Governance and Human Resources Committee.

It was advised that the communication about the event and nomination processes will be undertaken through Radio, social media, Workplace Magazine, Metro Ezasegasini Newspaper, Info-Info and Municipal Website. The City Manager's Circular will also be published to inform all employees and public about the nomination process. The Corporate and Human Capital Cluster will sensitise the public, management and employees about the ceremony and its positive impact on employee satisfaction, morale, and motivation. The nomination forms will be developed and distributed to employees and the public through Cluster representatives in conjunction with the Communications Unit.

It was advised that this process will be undertaken in consultation with the City Manager, Chief Financial Officer and Deputy City Manager: Corporate and Human Capital, a discreet and confidential adjudication process which will be undertaken as follows:

- DCMs will be responsible for pre-adjudication process of nominations from their respective clusters.
- An independent Adjudicating Committee will be responsible for the final adjudication of all nominations coming from different DCM/Clusters.
- The Executive Management Committee and the Executive Committee will be appraised once the adjudication process has been completed.

It was reported that the Organisation Development and Change Management (ODCM) Unit will undertake monitoring and evaluation process based on the set standards linked to the award nomination process. The Mayor and the City Manager of eThekweni Municipality respectively, will then host a Municipal-wide event after the nomination and adjudication process has been finalised.

The Executive Committee supported the item pointing the significance of boosting employee morale and this to then translate to improved service delivery. Confirmation was given that categories will focus on key elements, including efficiency displayed in customer service; improved performance outcomes; and costs savings implemented during service delivery, amongst the other categories.

The DA dissented on this matter based on what they regarded as uncertainties with regard to the budget element. That the costs exceeding a million is considered exorbitant when considering the number of two hundred (200) guests expected. Also, the DA felt some of the employees will be excluded unfairly since there are employees who remain unproductive due to the shortage of tools of trade.

The other Parties supported the matter reiterating the positive impact as a result thereof and noting that the actual costs will be informed by the final logistics in this regard. The IFP but cited the importance of reflecting financial implications to get comfort that budget is available for this event.

Accordingly, the DA (03) dissented, with the ANC (03); EFF (01); IFP (01); and NFP (01) being in support of the recommendation,

COMMITTEE RECOMMENDS:

That authority be granted for the Deputy City Manager: Corporate and Human Capital to incur expenditure estimated to be the amount of R1 740 000.00 (One Million Seven Hundred and Forty Thousand Rand) to host the 2023 eThekweni Municipality Service Excellence Awards Ceremony at Inkosi Albert Luthuli International Conventional Centre (ICC) on a suitable date still to be confirmed by the Corporate and Human Capital Cluster, in consultation with the Chairperson of the Governance and Human Resources Committee.

Financial Implications:

No.	Item	Estimated Cost
1	Venue and Catering: ➤ International Convention Centre (200 Guests)	R900 000
2	Technical (Sound /lightning /podium/stage)	R200 000
3	Videography	R60 000
4	Pyrotechnics	R30 000
5	Décor	R150 000
6	Frames for Certificates	R30 000
7	Pictures and Framing pictures	R50 000
8	Trophies	R30 000
9	Entertainment	R150 000
10	Gifts and Promotional Items	R40 000

No.	Item	Estimated Cost
11	Activation- Radio/Newspaper Adverts/Social Media (Open Public & Counsellor Nominations for Special Awards)	R100 000
	TOTAL	R1 740 000.00

Financial Implications (Provided after EXCO Meeting)

BUSINESS UNIT	ITEM.SUB	FUNDING	COSTING	PROJECT	REGION
33151	22710.30'	12120	0000	53500-55	0010

FC: 2024/14/13

Commenting on the matter, the DA submitted that in the past the Municipality approved events with exorbitant budgets and without giving assurance of return on investment. It was pointed out that generally, the Municipal civil servants are underperforming, and this being confirmed by the report of the Auditor-General that repeatedly cites lack of implementation of consequence management. The DA referred to shrinking economic growth and considered it unaffordable host an event estimated to cost the Municipality R1,7 million. The Municipality was requested to consider other alternative; practical; targeted; and effective methods to boost staff morale and better improve productivity. Some of the factors alluded to included provision of adequate tools of trade and better salary structure.

The APF echoed the views of unstable economic conditions and considered it not prudent for the Municipality to spend exorbitantly for staff motivation. That, performing duties is already an obligation in terms of contract of employment entered into between employer and employee. Also citing salaries and bonuses already being paid to compensate employees for the service rendered. Meanwhile, a view was submitted to hold underperforming employees accountable. The APF then dissented on this matter.

Joining the discussion, the ADEC also believed in other cost-effective mechanisms to boost staff morale rather than spending R1,7 million for the event. That these funds could be redirected to beef up deteriorating Municipal basic services. Meanwhile, the IFP also cited similar sentiments, citing for instance deficiencies within the Municipal Call Centres to be addressed urgently as well as critical Municipal infrastructure repair work required. In this regard, they emphasised a need for the reprioritization of the proposed R1,7 million for the staff event. The ATM also submitted that service delivery status has not changed for better. Therefore, the Municipality should not be seen to be applauding poor performance. On this basis a dissenting vote was also cited.

While there are employees considered to be performing below standard, the ANC felt there is no logic though to punish competent workers for the ineffectiveness of others. The ANC hailed those employees who performed exceptionally and emphasized a need to officially recognize them to promote a culture of excellence. It was then advised that large portion of the budget for the event in question will go toward the ICC venue hire. This was considered not a loss given that the Municipality is still boosting the operations of its Entity and therefore the funds were actually circulating in one pot. Mention was made that various stakeholders will be given the opportunity to contribute views on the excellence awards to ensure that overall the employees awarded have genuinely touched the City customers with tangible service delivery results.

Subsequently, a **MOTION TO AMEND** was submitted as follows: -

In terms of Rule of Order By-Law 20(4), Councillor NL Khuzwayo seconded by Councillor SV Mngadi, both from the ANC moved as a procedural motion to amend the above recommendations by addition of the words at the end of recommendation 1.2 to read as follows:

“to replace the words, “City Stars” with “eThekweni Municipality Service Excellence Awards.”

CARRIED

As some members were not in support of the Motion to Amend, the matter was put to the vote. With 192 Councillors present, 114 Councillors (ANC - 88, EFF - 20, ABC - 02; ADEC - 00; APF - 00; NFP - 01; PFP - 00, PRM - 01, TA- 01 and VF Plus - 01) voted in favour of the amendment and 77 Councillors (DA - 46, IFP- 16, Action SA - 03, ACC - 01, ACDP - 02, AIC- 02, ATM - 01; ALJAMAH - 01; JEP -01; KZNI - 01, MF - 01, MOSA- 01 and UIM - 01) voted against the amendment. 1 DLC Councillor abstained on the matter.

Therefore, the above-mentioned Motion to Amend was, by the majority voted, **CARRIED**.

Discussion thereafter reverted back to the substantive matter, wherein, some members were not in support of the recommendations, therefore, the matter was put to the vote. With 194 Councillors present, 115 Councillors ANC - 88, EFF - 20, ABC - 02; APF - 00; NFP - 01; PFP - 01, PRM - 01, TA- 01 and VF Plus - 01) voted in favour of the recommendations. 78 Councillors (DA - 46, IFP- 16, Action SA - 03, ACC - 01, ACDP - 02, ADEC - 01; AIC- 02, ATM - 01; ALJAMAH - 01; JEP -01; KZNI - 01, MF - 01, MOSA- 01 and UIM - 01) voted against the matter. 1 DLC Councillor abstained on the matter.

Thereafter the above recommendations were by a majority vote, **ADOPTED**, with amendment to replace the words “City Stars” with “eThekweni Municipality Service Excellence Awards”.

3. **REPORT OF THE SECURITY AND EMERGENCY SERVICES COMMITTEE:
MEETING HELD 2023-07-20.**

(Page R30)

3.1 **Fire and Emergency Services Unit Standard Operating Procedure Guiding Regional
Boundaries and Geographical Response Areas:**

(Page 10: Security and Emergency Services Committee - Agenda 2023-07-20)

The Committee received the Fire and Emergency Services Standard Operating Procedure (SOP) detailing new geographical boundaries and Wards serviced by various fire stations with the aim of achieving minimum response times and the administration of local station community matters relating to fire and emergency incidents. Indication was given that this SOP was presented to the previous Committee and in view of the Security and Emergency Services Committee having been recently established, it has become necessary for the Committee members to be informed about this SOP.

The SOP stipulates the process as follows:

- i) All fire service administrative matters such as the participation in community structures, complaints at station level as well as community developmental initiatives shall be performed by the local Fire Station Commanders on a Ward/Ward Cluster based approach.
- ii) Council and Unit policy related matters shall be escalated to the Unit's Senior Management for direction.
- iii) All community issues attended to and the activities performed shall be recorded in the "Community Matters" file which shall be kept at every Station Commander's Office and shall be subject to routine audit by Senior Officers.
- iv) Operational response by fire stations which are downscaled to Water Carries Stations will vary in incidents requiring Rescue Pump.
- v) Any deviations to this SOP may be authorized after consultation with the Senior Officer on Stand-By or the Regional Commander in charge of the affected Region or the Managers of other Departments.

The table below reflects geographical boundaries per region and the areas serviced by each fire station:

SOUTHERN REGION	
The Southern Region boundaries are formed between Central and Western Regions	
FIRE STATION	AREAS/WARDS SERVICED
Umkhomazi Fire Station	Magabheni, Clanstall, Umkhomazi, Craigieburn Widenhan Roseneth, Mahlongwa, Ilfracombe (Ward 99) Danganya, Umnini, Umgababa, Inkangala (Ward 98) Maphumulo, Thoyane, Embo-Isimahla, Nkwenkwezi (Ward 105)
Amanzimtoti Fire Station	Adams Mission, Emsahweni, Mkhazana (Ward 67) KwaMakhutha (Ward 94) Athlone Park, Amanzimtoti, Ezombokodweni (Ward 93) Karridene, Illovo Glen (Ward 97) Illovo (Ward 109) Enkanyisweni, Shoji (Ward 96)
Prospecton Fire Station	Prospecton Industrial, Malukazi, Isiphingo Hills (Ward 89) Isiphingo Beach, Isiphingo Rail (Ward 90) Malukazi, Umlazi Y-Section, Umlazi U-Section (Ward 86) Umlazi Z- Section (Ward 85) Reunion (Ward 76)
Mobeni Fire Station	Montclair, Yellowwood Park (Ward 64) Merwent, Merebank, Austerville (Wards 66 and 68) Mobeni Heights (Ward 69) Lamontville (Ward 74) Mobeni (Ward 75)
Umlazi Fire Station	J & H Sections (Ward 77), K Section (Ward 78), G & F Sections (Ward 79), E, B, A & V Sections (Ward 80), C Section (Ward 81), R, N & W Sections (Ward 82), L & M Sections (Ward 83), Esidweni, BB, AA, CC and DD Sections (Ward 84), P Section (Ward 85), D & Q Sections (Ward 87), S Section (Ward 88), Inwabi (Ward 100), Ngonyameni (Nkwali), J Section (Ward 72)
Folweni Fire Station	Golokodo, Nsimbini, Folweni C & B Sections (Ward 95), Folweni A Section (Ward 96), Umbumbulu, Empusheni, Sobhisi, Madundube (Ward 100), West of ex Vulamehlo (Ward 105)
NORTHERN REGION	
The geographical border line between Central and Northern Regions is the Umngeni River	
Durban North Fire Station	Umngeni Park, Broadway, Virginia (Ward 36),

	Briardene, Sea Cow Lake, Kenville, Avoca (Ward 34) Redhill, Glen Anill, La Lucia (Ward 35) Avoca Hills, Moriah, Duffs Road (Ward 102)
Umhlanga Fire Station	Umhlanga Ridge, Sommerset Park, Burnside (Ward 35) Mt Edgecombe, Blackburn Village, Ottawa Units (Wards 102 & 110) Trenence Park, Buffelsdraai (Ward 59)
Phoenix Fire Station	All Phoenix areas (Wards 48, 49, 50, 51, 52 & 104)
Ntuzuma Fire Station	Newlands East, Siyanda (Ward 11) KwaMashu (Wards 39, 40, 41, 45, 46 & 47) Newlands West (Ward 37) Inanda Glebe, Emachobeni, Stop Eight (Ward 44) Inanda (Wards 53, 56 & 57) Lower Manaza, Matata, Ngonweni, Iqadi (Ward 3)
Tongaat Fire Station	Verulam (including Ward 106) Canelands, La Mercy Airport, Genezzano (Ward 58) Emona, Umbhayi, Gwala (Ward 61) Fairbreeze, Hambanathi Village, Wewe, Fraser (Ward 62) Hazelmere, Cottonlands, Barns (Ward 60)
WESTERN REGION	
Pinetown Fire Station	Westmead, Mahogany Ridge, Motala Heights, N3 Tollgate (Ward 15) Ashley, Farningham Ridge, Caversham (Ward 16) Pinetown CBD, Cowies Hill, New Germany, Paradise Valley (Ward 18) KwaDabeka B (Wards 20 & 21) Padfield Park, Wolds, Borkshire Downs (Ward 21) Cleremont (Ward 22)
Hammarisdale Fire Station	Hammarisdale, Inchanga, Fredville (Ward 4) Mpumalanga, Ezitendeni, Emalangeneni (Ward 6) Luthuli, Ekwandeni, Kwambiza (Ward 7) Drummond, Cliffdale, Riverdale, Ximba, Embo (Ward 103)
Pinetown South Fire Station	KwaNdengezi, Coffee Farm, KwaLinda (Ward 12) Luganda, Nagina, Marrianridge (Ward 13) Dassenhoek, Thornwood, Emansenseni (Ward 14) Tshelimnyama, Mpola (Ward 15) Ashley, Nazareth, St Wendolins (Ward 16) Klaarwater, Savannah Park, Nsizwakazi (Ward 17)
Gillitts Fire Station	Bothas Hill, Alverstone, Shongweni (Ward 8) Hillcrest, Waterfall, Crestolme, Mahlabathini, Lower Molweni (Ward 9) Stockville, Kloof, St Hellier (Ward 10) Wyebank (Ward 19)
Westville Fire Station	Chiltern Hills, East Cowies, Rouken Glen, Dawncliffe (Ward 18) Reservior Hills, Dawncrest (Ward 23) Westville, Whispers, Berea West, Beverley Hills (Ward 24) Atholl Heights (Ward 92)
Queensburgh Fire Station	Queensburgh, Marlvern, Northdene, Nirvana Hills, Mulberry Park, Moseley Park (Ward 63) Queensburgh Industrial, Burlington Heights (Ward 65) Buffelsbosch, Shallcross East of Railway Line (Ward 71)
Cato Ridge Fire Station	Cato Ridge, Harrison, Nonoti, Bhobhonono, Emvini, Denge, Siweni, Ntukuso, Uthweba, Craiglea (Ward 1) Mophela North, Sankontshe, Georgedale, Mophela (Ward 5)
CENTRAL REGION The Central Region boundaries are formed against South, West and Northern Region	
Central Fire Station	Warwick, Central Business District (Ward 28) Point, South Beach, North Beach (Ward 26) Greyville, Essenwood, Morningside (Ward 27) Musgrave, Sparks (Ward 31) Sherwood, Bonela (Ward 30) Cato Manor, Umkhumbane (Ward 29) Palmiet, Clare Estate, Bottomm of Reservior Hills (Ward 23)
Congella Fire Station	Harbour, Bayhead, Rossburgh (Ward 32) Umbilo, Glenwood, Bulwer (Ward 33) Glenmore, University of KwaZulu Natal (Ward 101)

	Seaview, Yellowwood Park (Ward 64)
Jacobs Fire Station	Clairwood (Ward 32) Wentworth, Ocean View, Island View (Ward 66)
Chatsworth Fire Station	Bulbul, Havenside (Ward 69) Silverglen, Westcliff (Ward 70) Arena Park, Croftdene (Ward 73) Moorton, Shallcross (Ward 71) Umhlathuzana, Kharwastan (Ward 65) Welbedacht (Ward 77)

Upon an enquiry pertaining to the actual number of Fire Stations located within the Municipal area and the non-inclusion of the newly opened flagship Verulam Fire Station, confirmation was given that there were twenty-two (22) Fire Stations in existence and that the Report before the Committee relates to the 2017 version of the SOP and with the Verulam Fire Station to be included in the revised SOP.

With clarity having been provided,

COMMITTEE RECOMMENDS:

That, in order to promote quick turnaround time in the event of fire emergency, and to ensure local communities are empowered regarding the facility for ease of quick access during the emergency, Council notes the Fire and Emergency Services Standard Operating Procedure detailing new geographical boundaries and Wards serviced by various fire stations, which restructuring has been informed by the objective to achieve minimum response times and effective administration of community matters relating to fire and emergency incidents in the local stations.

Commenting on the matter, the DA drew attention to misaligned Municipal boundaries, and that the impact in terms of the item under discussion relates to uncertainties with regard to the boundaries of the fire stations listed. Therefore, it was recommended to update the Fire and Emergency Services Standard Operating Procedure (SOP) to enable Councillors to disseminated accurate information to communities, when required to do so.

The APF echoed challenges posed by unclear boundaries and recommending that fire stations be located in accordance with proximity of the community areas, and equipped with suitable resources to respond effectively to emergencies. The Ntuzuma case was cited, that with water challenges experienced thereat, the community is assisted by the Phoenix Fire Station and this in turn leading to a possibility of arriving when for instance the house has already burnt down to ground.

Meanwhile, ADEC welcomed the report and extended gratitude to the Fire and Emergency Services Unit for crafting the SOP, which reflects the geographical boundaries and Wards serviced by various fire stations. It being acknowledged that the restructuring has been informed by the objective to achieve minimum response times and effective administration of community matters relating to fire and emergency incidents in the local stations.

Thereafter, the Deputy Mayor as the Chairperson of the Security and Emergency Services Committee acknowledged that the SOP in certain aspects reflects outdated information for some Wards. She advised that updated and revised SOP will be considered by the Security and Emergency Committee at its future meeting to enable Councillors to communicate accurate information to their constituents. Thereafter, the ANC also appreciated the report presented to the Council and positive update provided by the Chairperson of the Security and Emergency Services Committee.

In this regard, the above recommendations of the Executive Committee were, **NOTED.**

3.2

Request for Authority to Engage the Provincial Road Traffic Inspectorate Department for the Use of its Umdloti Facility for the Inspection of Dangerous Goods Vehicles (29/1/2/5):

(Page 25: Security and Emergency Services Committee - Agenda 2023-07-20)

Authority is sought for the Fire and Emergency Services Unit to engage the Provincial Road Inspectorate Department to request to use the Department's Umdloti facility for the purpose of inspecting dangerous vehicles. One of the functions of the Fire and Emergency Services Unit is to provide access to comprehensive fire and emergency services to all communities of eThekweni Municipality. This is done to achieve the following:

- (i) Reduce incidents and adverse effects of fire
- (ii) Contribute to preserving life,
- (iii) Maintain a healthy natural environment, and
- (iv) Safeguard the economic base of the Municipality

The Unit through its Fire Safety Department is mandated to inspect and regulate the Transportation of Dangerous Goods within the eThekweni Municipal area. This process is driven through the National Road Traffic Act (Act 963 of 1996) and the relevant Standards and Codes of Best Practice as well as the Municipal Fire Safety By-Laws as promulgated in the Provincial Notice 216 of 2022. The inspection of Dangerous Goods Vehicles is currently conducted at the Illovo Fire Training Centre (Southern Corridor).

The Unit intends engaging the Provincial Roads Traffic Inspectorate (RTI) with a view to requesting that the Municipality be granted permission to utilise the RTI facility based in Umdloti for the purpose of conducting the inspection of Dangerous Goods Vehicles. The proximity and the location of the Umdloti RTI facility would make it ideal to conduct the necessary inspection and further assist in the process of issuing Transportation of Dangerous Good certificate which is a requirement in terms of the Fire Safety By-Law 2022.

The availability of this service in the northern region would assist in improving access for the northern region transportation industry and would further assist in reducing travel distance to the Illovo Fire Training Centre and thereby encouraging compliance and fire safety.

During the process of the engagements, it should be noted that the Municipality's Legal and Compliance Unit would be requested to assist in facilitating all legal requirements necessary in this regard. It should be noted that there are no financial

implications that have been identified thus far, however if during the engagements such is required, necessary report will be submitted to the Committee for approval.

Upon the conclusion of the engagements, the transportation industry will be officially notified should the facility be made available for use by the Municipality's Fire and Emergency Services Unit. Mention was also made that the current inspections and certifications continue to bring revenue to the Municipality.

With the Committee appreciating the initiative to create capacity in the northern part of the Municipality for the facility to use to inspect dangerous goods vehicles, it was accordingly,

COMMITTEE RECOMMENDS

- 3.2.1 That authority be granted for the Head: Fire and Emergency Services to engage the Provincial Road Traffic Inspectorate with an aim of securing an agreement to establish the inspection facility within their Umdloti Base for the inspection of Dangerous Goods Vehicles, which will improve access for the northern transportation industry, which will also support them by reducing travel distance to the inspection facilities thereby encouraging compliance and fire safety.
- 3.2.2 That it be noted that there are no financial implications that have been identified during the process of engaging the Provincial Traffic Inspectorate, however, if at the conclusion of the negotiations it becomes apparent that there would be financial implications associated with this proposed operational arrangements, a report in this regard would be submitted for consideration and decision by the Council and its oversight structures.

Speaking on the report, the IFP appreciated the Municipal initiative through its Fire Safety Department to engage the Provincial Road Traffic Inspectorate with an aim of securing an agreement to establish the inspection facility within their Umdloti Base for the inspection of Dangerous Goods Vehicles. They emphasised that this would provide relief to road users and thus ensuring their safety.

Also sharing similar sentiments, the ADEC and the ANC encouraged this initiative and requested that the Municipality should continue engaging other spheres of government to collaborate in various other initiatives and agreements that would positively benefit communities.

The Deputy Mayor applauded the initiative and indicated this represents collaborations brought about by the implementation of the District Development Model, which model is aimed at improving coherence and impact government service delivery inclusive of business sector and subsequently an increase in economic participation.

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

4. REPORT OF THE HUMAN SETTLEMENTS AND INFRASTRUCTURE COMMITTEE: MEETING HELD 2023-07-20.

4.1 Proposed Cancellation of Servitude, Closure and Disposal of a Road Reserve Over Portion 4 of Erf 31556 Pinetown, Located at 63 Chester Road (17/2/1/2/3):
(Page 31: Human Settlements and Infrastructure Committee - Agenda 2023-07-20)

Authority is sought to cancel the servitude over Portion 4 of Erf 31556 and to permanently close the Road Reserve in terms of Section 211 of the Local Authorities Ordinance No. 25 of 1974 read together with Planning and Land Use Management By-law 2016. Furthermore, to dispose of the Road Reserve, at a purchase price of R39 000.00 (Thirty-Nine Thousand Rand), excluding VAT, which represents the current market value of the road reserve as assessed by the registered valuer.

With the Committee being in support of the proposal,

COMMITTEE RECOMMENDS:

- 4.1.1 That the Council declares in terms of Regulation 5(1)(b), Regulation 7 and 11 of the Municipal Asset Transfer Regulation 2008, read together with Section 14 (2)(a) and (b) of the Local Government: Municipal: Finance Management Act, No 56 of 2003 that:
 - 4.1.1.1 The Road Reserve over Portion 4 of Erf 13556, Pinetown in extent of 133m² as depicted on Plan Number SJ 4863/8 is not required to provide minimum level of basic Municipal services and is surplus to the requirements of the Municipality, as confirmed through Annexure A attached to the report of Head: Real Estate dated 22 June 2023.
 - 4.1.1.2 The market value of the road reserve is currently assessed at a value of R39 000.00 (Thirty-Nine Thousand Rand), excluding VAT, as confirmed through Annexure C attached to the report of the Head: Real Estate dated 22 June 2023.
- 4.1.2 That the road servitude over Portion 4 of Erf 131556, Pinetown, Registration Division FT, Province of KwaZulu-Natal, measuring 133m² in extent as depicted on Plan Number SJ 4863/8, be cancelled.
- 4.1.3 That the road reserve over Portion 4 of Erf 31556, Pinetown in extent 133m² as depicted on Plan Number SJ 4863/8 be offered for sale in freehold to the registered owner of Portion1 of Erf 31556, Pinetown, at a purchase price of R39 000.00 (Thirty-Nine Thousand Rand) exclusive of VAT such price reflecting the purchase price based on the current market value of the road servitude, as assessed by a registered valuer in full compliance with the prevailing Municipal Legislative Framework.
- 4.1.4 That subject to the development application in terms of the eThekweni Municipality: Planning and Land Use Management By- Law 2016, as amended and in terms of Section 211 of the Local Authorities Ordinance 25 of 1974, the closure of the Road Reserve over Portion4 of Erf 31556, Pinetown as per Hand Plan Number SJ 4863/8, be approved.
- 4.1.5 That the closure be advertised in terms of Chapter 9 read together with Section 28 (2) (e) of the eThekweni Municipality Planning and Land Use Management By-Law, 2016, as amended.
- 4.1.6 That in the event of objections being lodged to the proposed closure of the road reserve over Portion 4 of Erf 31556, Pinetown, when it is advertised, the process outlined in

the eThekweni Municipality Planning and Land Use Management By-Law 2016, as amended, be followed to respond to the objections.

- 4.1.7 That all relevant conditions received from the Municipality's service delivery units as detailed in paragraph 5 of this report will form part of the sale agreement to be concluded between the municipality and the prospective purchaser.
- 4.1.8 That all costs incidental to the transaction shall be at the cost of the prospective purchaser.
- 4.1.9 That all development plans and applications must be submitted and approved by the Municipality prior to any commencement of construction on the property.
- 4.1.10 That the Head: Real Estate be authorized to sign all documents necessary to give effect to this transaction in terms of the eThekweni Municipality: Supply Chain Management Policy, the Municipal Asset Transfer Regulations, 2008, the Local Government: Municipal Finance Management Act No 56 of 2003, the eThekweni Municipality Land Disposal and Granting of Property Rights Policy, the eThekweni Municipality: Planning and Land Use Management By-Law 2016 as amended and any other applicable legislation the Head: Real Estate considers necessary to protect Municipal interests.

ADOPTED.

- 4.2 Request for Permission to Enter into a Memorandum of Understanding Between eThekweni Municipality and Transnet Freight Rail in Respect of the Construction of GO! Durban IPTN Corridor 1 Work Packages (26/3/1/1):
(Page 109: Human Settlements and Infrastructure Committee - Agenda 2023-07-20)

Authority is sought for the eThekweni Municipality, through the eThekweni Transport Authority, enter into a Memorandum of Understanding and laying groundwork for the implementation of the proposed Go! Durban Integrated Public Transport Network (IPTN) Corridor 1 Work Package 5 (C1 WP5), which comprises the demolition and replacement of three (3) existing rail-over road steel bridge, crossing Inanda Arterial Road between Sea Cow Lake (to the west) and Chris Hani Road (to the east) in Springfield, Durban, KwaZulu-Natal, with three (3) reinforced concrete rail-over road bridges.

With the Committee being in agreement,

COMMITTEE RECOMMENDS:

That in light of the risks (strategic, legal, statutory, financial, time, organizational, technical and reputational et), authority be granted for the City Manager to engage with Transnet Freight Rail (TFR) for the purpose of developing and concluding a new Memorandum of Understanding (MOU) between eThekweni Municipality and Transnet Freight Rail (TFR) in respect of the needed collaboration for the implementation of corridor C1, Work Package 5 (Realignment of Inanda Arterial between Sea Cow Lake and Chris Hani Road Phase 2 including widening the existing overhead rail bridges).

Financial Implications:

- (i) The current cost estimate for the implementation of the project stands at R119 756 319.70 (One Hundred and Nineteen Million Seven Hundred and Fifty-Six Thousand Three Hundred and Nineteen Rand Seventy Cents) exclusive VAT, contingencies, and escalation.
- (ii) That it is conservatively estimated that the professional fees for the supervision of these works will be in the region of R9 982 500.00 (Nine Million Nine Hundred and Eighty-Two Thousand Five Hundred Rand) exclusive VAT, Contingencies and Escalation.

Commenting on the matter, the DA noted the benefits to be gained through the project relative to the demolition and replacement of three (3) existing rail-over road steel bridge, crossing Inanda Arterial Road between Sea Cow Lake (to the west) and Chris Hani Road (to the east) in Springfield, Durban, with three (3) reinforced concrete rail-over road bridges. However, parallel to this project, they referred to challenges of the other Go! Durban Projects, which they indicated that exorbitant budgets had been spent to date on infrastructure investment, including buses, whereas the project has not been operational for its envisaged goals to be realised. In this regard, they were of the view that the realignment of Inanda Arterial between Sea Cow Lake and Chris Hani Road Phase 2, including widening the existing overhead rail bridges might also be subjected to similar challenges of the other Go! Durban Project, that of unresolved matters related to the taxi industry. They mentioned that the eThekweni residents continue to suffer inconvenience and negatively impacted due to these unresolved issues by the Municipality. On this basis, the DA abstained on the matter.

Also commenting on the matter, the APF supported the recommendations and emphasised that it was the responsibility of the Municipality to provide efficient and reliable transport system to its residents. They mentioned that implementation of the Go! Durban Project had to be fast-tracked and completed.

Meanwhile, the ATM felt that the residents have long given up on the Go! Durban Project, however, with this initiative being brought forward, this has potential to resolve challenges within the Project.

While in support of the proposed initiative by the Municipality to engage with Transnet Freight Rail for the purpose of developing and concluding a new MOU in respect of the needed collaboration for the implementation of corridor C1, Work Package 5, the ActionSA expressed concern that the Go! Durban project commenced in 2013 and to date has not taken off. They appealed to Council to relook at the entire project and to provide a report on the status thereof.

The ADEC also shared similar sentiments with regard to long awaited Go! Durban and supported provision of regular update reports on the Go! Durban Project to the Human Settlements and Infrastructure Committee. That it is unacceptable for the Municipality not to succeed in completing this project, while other Metropolitans in the Country have successfully concluded similar projects.

Thereafter, as some members were not in support of the recommendations, the matter was put to the vote. With 178 Councillors present, 135 Councillors (ANC - 78, EFF - 20, IFP- 15, Action SA - 03, ABC - 02; ACC - 01, ACDP - 01, AIC- 01, ADEC - 01; APF - 01; ATM - 01; ALJAMAH - 01; JEP -01; KZNI - 01, MF - 01, MOSA- 01 NFP - 01; PFP - 01, PRM - 01, TA- 01, UIM - 01. and VF Plus - 01) voted in favour of the recommendations. 43 DA Councillors abstained on the matter.

Thereafter the above recommendations were by a majority vote, ADOPTED.

- 4.3 Request for Authority to Register Servitude for Msenga Road Area, Kloof: Sewer Reticulation in Ward 10 (17/2/1/1/R & 23/21/3/5/1):
(Page 206: Human Settlements and Infrastructure Committee - Agenda 2023-07-20)

Authority is sought for the Real Estate Unit to register a servitude for Msenga Road Area, Kloof – Sewer Reticulation Project. The estimated cost for acquiring servitude is R100 000.00 (One Hundred Thousand Rand), excluding VAT, which has been provided for in the 2023/2024 financial year under Project No. Y8168 – Msenga Road Area, Kloof – Sewer Reticulation, Ward 10.

With the Committee being in agreement,

COMMITTEE RECOMMENDS:

- 4.3.1 That Council grants authority for the Head: Real Estate to acquire a sewer servitude within the Proposed Properties described as 18A: Umzwilili Road, Portion 1, Erf 164 Glenholm Ext 1; and 74A Old Main Road, Portion, 1 Erf 1248 Kloof, from the private owner via donation, private treaty or expropriation if necessary. This must follow the appropriate procurement process as prescribed by the relevant legislation, including the Municipal Supply Chain Management Policy, where applicable.
- 4.3.2 That in the event that expropriation is deemed necessary, authority be granted for the Head: Real Estate to proceed with the expropriation of a sewer servitude over 18A Umzwilili Road, Portion 1, Erf 164 Glenholm Ext 1, and 74A Old Main Road, Portion 1, Erf 1248 Kloof.
- 4.3.3 That subject to the adoption of .2 above, authority be granted for the Head: Real Estate to access compensation in terms of Section 25(3) of the Constitution of the Republic of South Africa Act No. 108 of 1996, read in conjunction with the Expropriation of Land Act No. 63 of 1975, as the proposed acquisition is in the public interest and/or for public purposes and such acquisition is deemed compulsory.
- 4.3.4 That subject to the adoption of .3 above, authority be granted for the Head: Real Estate to conclude the appropriate agreement and sign all necessary documents to effect transfer, donation or expropriation and registration in favour of eThekweni Municipality.

Project No.: Y8168; R100 000.00 (Provided in the capital budget for the 2023/2024 financial year).
FC No.: 365/C380

ADOPTED.

- 4.4 Request for Approval to Reallocate Block Sum within the 2023-24 Financial Year Capital Budget of the Water and Sanitation Unit (7/1/2/2 & 1/11/1/1/2):
(Page 209: Human Settlements and Infrastructure Committee - Agenda 2023-07-20)

Authority is sought to reallocate funds in the amount of R15 715 000.00 (Fifteen Million Seven Hundred and Fifteen Thousand Rand) within the approved Relay and Extensions Block Sum Water Capital budget to individual projects. Also, to seek authority to construct projects that have been prioritised for the Water and Sanitation Unit's capital projects in the 2023/2024 financial year as indicated below:

PROJECT NO	PROJECT DESCRIPTION	WARD	REASON	VALUE
X8265	Cato Manor Elgie Road	33	Frequent Bursts	1 000 000,00
X7968	Fairways RCH	102	Frequent Bursts	400 000,00
X8554	21 Lineside Place	51	Frequent Bursts	200 000,00
X8591	Mt Edgecombe Hoylake Drive	102	Frequent Bursts	550 000,00
X8554	Maasbanker Avenue	48	Frequent Bursts	2 200 000,00
X8245	Ngonyameni	100	Frequent Bursts	3 000 000,00
X8408	Swallow Road	61	Frequent Bursts	3 000 000,00
X8663	Astral Drive Woodhurst	39	Frequent Bursts	5 365 000,00
			TOTAL	R15 715 000,00

Regarding the criteria used to reprioritize projects, it was advised that areas that suffered more than 10 frequent bursts within a financial year are being prioritised. A request was then made to consider also including in this project the areas dominated by Africans.

The IFP at the Executive Committee level requested that clarity be provided that the road marked for Ward 39 is accurate.

On this basis and with the Committee being in agreement,

COMMITTEE RECOMMENDS:

4.4.1

That authority be granted for the Head: Water & Sanitation to reallocated funding in the amount of R15 715 000.00 (Fifteen Million Seven Hundred and Fifteen Thousand Rand) within the approved Relay and Extensions Block Sum Water Capital budget to individual projects, and seek authority to implement projects that have been prioritised for the Water and Sanitation Unit's capital projects in the 2023/2024 financial year as indicated below:

PROJECT NO	PROJECT DESCRIPTION	WARD	REASON	VALUE
X8265	Cato Manor Elgie Road	33	Frequent Bursts	1 000 000,00
X7968	Fairways RCH	102	Frequent Bursts	400 000,00
X8554	21 Lineside Place	51	Frequent Bursts	200 000,00
X8591	Mt Edgecombe Hoylake Drive	102	Frequent Bursts	550 000,00
X8554	Maasbanker Avenue	48	Frequent Bursts	2 200 000,00
X8245	Ngonyameni	100	Frequent Bursts	3 000 000,00
X8408	Swallow Road	61	Frequent Bursts	3 000 000,00
X8663	Astral Drive Woodhurst	70	Frequent Bursts	5 365 000,00
			TOTAL	R15 715 000,00

4.4.2

That subject to the adoption of .1 above, authority be granted for the Deputy City Manager: Finance to include in his adjustment budget report the transfer of funds from

the Capital Blocks Sum Projects to individual projects, as reflected in the report by the Head: Water and Sanitation dated 2023-06-07.

Financial Implications:

FC No: 364/C 346

Relays and Extensions	R15 715 000.00	To be met by vote transfer 2023/2024 project (X4217)
Total	R15 715 000.00	

Cost Centre 69100 and 69200

Prior to the matter being discussed, the City Manager amended the Ward allocated Project X8663 to become Ward 70.

Commenting on the matter, the IFP noted the correction made and thereafter supported the recommendations. Meanwhile, the APF also supported the matter and further mentioned that reprioritization of budget for water projects has been undertaken throughout the year, but apparently this does not translate to water challenges improvements on the ground. That the challenge of sewer spillages for instance remains unresolved. In this regard, the Human Settlements and Infrastructure Committee was requested to look into these matters closely with a view to finding ways to put an end to challenges.

Also commenting on the matter, the ATM supported the recommendations and anticipated that this would assist communities of eThekweni Municipality. The ADEC also in support and pointing out that budget should be directed towards service delivery challenges, including pipe replacement to minimize water losses, burst and shortages. Mention being made that billions of rands are actually required for the Municipality to holistically deal with the ageing water infrastructure, it being encouraged that strategic partnerships with various institutions be considered to implement measures to achieve longevity and sustainability of the City's infrastructure.

The ANC supported capital budget reprioritization under the Water and Sanitation Unit to come close to addressing infrastructural challenges.

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

4.5

Request for Authority to Register Servitude for the Ngoqokazi Collector Sewer, Ward 56 and 57 (23/2/1/3/5):

(Page 214: Human Settlements and Infrastructure Committee - Agenda 2023-07-20)

Authority is sought to register a servitude for the Ngoqokazi Collector Sewer. The estimated cost for acquiring the servitude is R200 000.00 (Two Hundred Thousand Rand), excluding VAT, with funds being provided in the 2023/2024 financial year under Project No.: Y8912, Wards 56 and 57.

With the Committee being in agreement,

COMMITTEE RECOMMENDS:

- 4.5.1 That authority be granted for the Head: Real Estate to acquire servitude for the properties listed in Appendix A attached to the report by the Head: Water and Sanitation dated 2023-05-29, as well as the SG diagrams of these properties as contained in Appendix B of the same report.
- 4.5.2 That in the event expropriation is deemed necessary, authority be granted for the Head: Real Estate to proceed with the expropriation of the properties concerned.
- 4.5.3 That subject to the adoption of .2 above, authority be granted for the Head: Real Estate to assess compensation in terms of Section 25(3) of the Constitution of the Republic of South Africa, read in conjunction with the expropriation of Land Act No 63 of 1975, as such the proposed acquisition is in the public interest and/or for public purposes and, as such, the acquisition is deemed compulsory.
- 4.5.4 That subject to the adoption of .3 above, authority be granted for the Head: Real Estate to conclude the compensation agreement and sign all necessary documents to effect the expropriation and registration in favour of the eThekweni Municipality.

Financial Implications:

The estimated cost for acquiring the servitude is R200 000.00 (Two Hundred Thousand Rand) (Excl. VAT). A budget of R200 000.00 (Two Hundred Thousand Rand) (Excl. VAT) has been provided in 2023/2024 financial year under project No. Y8912.

FC No: 365/C379

ADOPTED.

5. **REPORT OF THE COMMUNITY SERVICES COMMITTEE: MEETING HELD 2023-07-27.**

(Page R40)

- 5.1 **Development of eThekweni Municipality Controlled Fuels Policy in Collaboration with C40 Clear Air Accelerator (32/P):**
(Page 28: Community Services Committee - Agenda 2023-07-27)

A need exists to develop a Controlled Fuels Policy to serve as a framework within which to facilitate reduction in air pollution and assist to achieve set targets to address poor air quality. This project has been made possible by the funding available from the C40 Clean Air Fund in the amount of R1.2 Million.

C40 is a network of nearly one hundred (100) Mayors of the world's leading Cities, working on delivering urgent action currently needed to confront climate crisis and create a future where everyone, everywhere can thrive. The Mayors of the C40 Cities are committed to using science-based and people-focused approach to help the world limit global heating to 1.5°C and build healthy, equitable and resilient communities.

The City of eThekweni is signatory to the C40 Clear Air Accelerator and is in a process of setting out substantive policies to address air pollution, including controlling fuels, such as coal and heavy fuel oil. The C40, in collaboration with the Clean Air Fund, facilitates access to funding opportunities available for Cities to implement air quality programmes and projects in their respective areas.

With the Committee being in support of the proposed Policy development, accordingly,

COMMITTEE RECOMMENDS:

- 5.1.1 That authority be granted for the Head: Health; the C40 team; along with the appointed Council for Scientific and Industrial Research (CSIR) team, to develop a Controlled Fuels Policy with the aim of addressing poor air quality in the eThekweni Municipal area.
- 5.1.2 That subject to the approval of .1 above, the Head: Health be provided with necessary support and resources for the development of the Controlled Fuels Policy, it being recorded that major funding in this regard is being contributed through the C40 Clean Air Fund in the amount of R1.2 Million.

Financial Implications:

Item	Cost	Narrative	Responsible Party
Development of Controlled Fuels Policy in eThekweni Municipality	\$69 000 or R1.2m.	<p>This project is made possible with the funding from C40 Clean Air Fund, a philanthropic initiative with a mission to tackle air pollution around the world. It leads to a coalition with funders interested climate change, children and health to fund and support a multinational portfolio of clean air programmes to deliver impactful and scalable improvements to air quality, human health and decarbonisation.</p> <p>The Controlled Fuels Policy service provider is also being paid for by the C40 which is an amount of about \$ 69 000 or R1.2 million.</p>	The C40 Clean Air Fund

Speaking on the matter, the ANC supported the development of Controlled Fuels Policy to serve as a framework within which to facilitate reduction in air pollution and assist to achieve set targets to address poor air quality. That this project has been made possible by the funding available from the C40 Clean Air Fund in the amount of R1.2 Million.

Notwithstanding the information given, the VF Plus registered their abstention on the matter.

Therefore, as some members were not in support of the recommendations, the matter was put to the vote. With 178 Councillors present, 177 Councillors (ANC - 78, DA – 43, EFF – 20, IFP- 15, Action SA - 03, ABC – 02; ACC – 01, ACDP – 01, AIC- 01, ADEC – 01; APF – 01; ATM - 01; ALJAMAH – 01; JEP -01; KZNI – 01, MF – 01, MOSA- 01 NFP - 01; PFP – 01, PRM – 01, TA- 01 and UIM – 01) voted in favour of the recommendations. 1 - VF Plus Councillor abstained on the matter.

Thereafter the above recommendations were by a majority vote, **ADOPTED.**

- 5.2 Request for Approval to Conduct Public Participation Process in Respect of Proposed eThekweni Municipality Animals By-Law, 2022 (1/1/3/1/3):
(Page 55: Community Services Committee - Agenda 2023-07-27)

Authority is sought for the Parks, Recreation and Culture Unit to undertake a public participation process to solicit stakeholder views on the proposed eThekweni

Municipality Animals By-law, 2022. A need exists to develop guiding legislation and an effective system to regulate the keeping and control of both domestic and wild animals. The proposed Animals By-law, 2022 also provides for licensing for specific animals and obtaining permit to keep specific animals.

As part of compliance requirements when introducing a By-Law, authority is then sought to undertake the public participation process prior to the Council's approval of the final draft Animals By-Law.

The Executive Committee welcomed this initiative and described it as progressive towards ensuring control in handling animals and also control of individual persons using wild animals for different reasons, with the By-law to then ensure overall protection to the residents of eThekweni.

Given the compliance requirements,

COMMITTEE RECOMMENDS:

- 5.2.1 That authority be granted for the Head: Parks, Recreation and Culture to facilitate the process of conducting the public participation process to solicit stakeholder views regarding the proposed eThekweni Municipality Animals By-law, 2022, it being recorded that a notice in this regard will be published in Ezasegagasini Metro newsletter, and that a copy of the By-law be placed on the City Hall notice board; Sizakala Centres; and be uploaded on the eThekweni Municipality's website (www.durban.gov.za), for a period of not less than thirty (30) days, to allow the public an opportunity to make representations accordingly.
- 5.2.2 That, if required, the eThekweni Municipality Animals By-law, 2022 be workshopped with the Committee on a date to be proposed and subsequently agreed to by the Committee accordingly.

Financial Implications:

Apart from costs associated with the publication of the public participation notice in Ezasegagasini, there are no further financial implications.

ADOPTED.

- 5.3 Request for Authority to Reprioritise the Stadia and Facilities Unit's Approved 2023-24 Capex Commitments (7/1/2/2 & 31/2/1/5/2):
(Page 122: Community Services Committee – Supplementary Agenda 2023-07-27)

The Stadia and Facilities Unit comprises six stadiums with varying needs in terms of refurbishment and installations required to maintain the standard of the stadiums, thereby ensuring compliance with various sporting regulations and requirements. The Moses Mabhida Stadium is the most significant asset within the Unit and is currently undergoing major structural refurbishments which is a technically intense project requiring high budgetary commitment. The Unit had identified funds from MS001 which were allocated for the Rehabilitation of Mechanical Joints and now to be reprioritised to fund the SCM completed and committed projects identified as follows:

- (a) Stadium back-up generators;
- (b) Mpumalanga Stadium floodlights;
- (c) Chatsworth Stadium refurbishment;
- (d) Umgeni infrastructure projects precast fencing; and

(e) Umngeni Infrastructure Project – Guardhouses.

Current MMS Project Status in Progress:

Item	Project Number	Contract Number	Budgeted Amount (2023/24 FY)	Shortfall Amount	Adjusted Budget	SCM Status
Rehabilitation of Mechanical Joints	MS001	MMS-0770	R18 960 000	(R12 960 000)	R6 000 000	SCM process underway
Stadium Back-up Generators	MS076	MMS8012a	R0	R4 200 000	R4 200 000	SCM process finalised and LOA issued. Shortfall to be sourced from MS001 after approval of reprioritisation
Mpumalanga Stadium Floodlights	MS065	E9440	R0	R8 000 000	R8 000 000	SCM process finalised and service provider appointed. Phase 1 of project commenced in the 2022/23 budget. Budget to be sourced from MS001 to complete project
Chatsworth Refurbishment	MS084	N/A	R0	R 200 000	R 200 000	SCM process has commenced and proformas finalised. Awaiting finalisation of reprioritisation
Umngeni Infrastructure Projects – Guard Houses	MS083	N/A	R0	R 200 000	R 200 000	SCM process has commenced and proformas finalised. Awaiting finalisation of reprioritisation
Mpumalanga Refurbishment	MS081	N/A	R0	R 200 000	R 200 000	SCM process has commenced and proformas finalised. Awaiting finalisation of reprioritisation
Umngeni Infrastructure Projects – Precast Fencing	MS082	N/A	R0	R 160 000	R 160 000	SCM process has commenced and proformas finalised. Awaiting finalisation of reprioritisation
Total			R12 960 000		R12 960 000	

With the Committee being in support of the proposed budget reprioritization aimed at ensuring structured service delivery within the approved budget,

COMMITTEE RECOMMENDS:

- 5.3.1 That authority be granted for the Head: Stadia and Facilities to reprioritise the 2023-24 capital budget in the amount of R12 960 000.00 (Twelve Million Nine Hundred and Sixty Thousand Rand) to fund the Supply Chain Management completed and committed projects, identified as Stadium back-up generators; Mpumalanga Stadium floodlights; Chatsworth Stadium refurbishment; Umngeni infrastructure projects precast fencing; and Umngeni Infrastructure Project - Guardhouses.
- 5.3.2 That subject to the approval of .1 above, authority be granted for the Head: Stadia and Facilities to liaise with the Chief Financial Officer with a view to submitting mid-term adjustment budget as per the requirements in terms of the Local Government: Municipal Finance Management Act 2003 for the approved projects.

Financial Implications:

The adjusted budget after the approval of this reprioritisation will not affect the bottom line of the Unit's budget.

Item	Approved Budget Amount (2023/24 FY)	Required Amount	Budget Reprioritization within the Unit	Adjusted Budget	Notes
Unit Capex Budget	R43 980 000	R12 960 000	R12 960 000	R43 980 000	Reprioritization fully funded with the units approved budget

Total	R43 980 000	R12 960 000	R12 960 000	R43 980 000	
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FC Number: 2024/30/CA02

ADOPTED.

- 5.4 Request for Authority for the eThekweni Municipality to Enter into New 3-Year Partnership Agreements with the Football Fraternity to Solicit Football Content (31/2/1/5/2):
(Page 126: Community Services Committee - Supplementary Agenda 2023-07-27)

The Moses Mabhida Stadium (MMS) was one of the host venues during the South Africa hosted 2010 FIFA World Cup. At that stage the Municipality adopted a commercial model as an operation model for the MMS, with an intention to ensure sustainability beyond the World Cup. In keeping therewith, long-term content driven contracts are required to unlock economic activities through event hosting to meet the MMS commercial business objectives. This to be achieved through contractual partnerships with football associations and professional clubs.

In fulfilling its commercial obligation, the Stadia and Facilities Management submitted a motivation that was adopted by the Council on 31 August 2020, seeking authority to enter into a three (3) year mutually beneficial partnerships and agreements with football associations.

In terms of the contracts obligations an allocated amount of league matches, knockout tournaments and national team fixtures were to be hosted in the five (5) community stadiums of the MMS located across the City.

With the existing Council-approved 3-year partnership agreements coming to end, it has become necessary to enter into a new 3-year agreement for the MMS to live up to its objective of unlocking economic activities through the stadium.

The significance of promoting local economic growth being realised, accordingly,

COMMITTEE RECOMMENDS:

- 5.4.1 That authority be granted for the Head: Stadia and Facilities to, on behalf of the eThekweni Municipality, enter into a three (3) year mutually beneficial agreement with the Professional Soccer League (PSL); South African Football Association (SAFA); and the professional Football Teams for a period of three (3) seasons (2023/2024, 2024/2025 and 2025/2026), for the purpose of securing fixtures to be hosted at the Moses Mabhida Stadium, including the five (5) community stadiums across the City.
- 5.4.2 That subject to the approval of .1 above, authority be granted for the Head: Stadia and Facilities to facilitate negotiations with the stakeholders identified and, upon successfully concluding the negotiations, oversee the implementation of the partnership agreement concluded.
- 5.4.3 That subject to the approval of .1 and .2 above, the Head: Stadia and Facilities submits progress reports, in respect of the football partnership agreements, to the Community Services Committee at the end of each season.

Financial Implications:

It be noted that the funding model may vary per project and will be developed in accordance with the guidelines of the terms and conditions that will be agreed with each association or PSL team. The agreed arrangement will be made in line with the approved budget for the Unit.

Commenting on the matter, the ActionSA was not in support of the matter and advised that this was solely based on the contents of the funding model.

Therefore, the above recommendations of the Executive Committee were, ADOPTED.

DIRECT EXCO REPORTS

6. **AUDIT AND RISK COMMITTEE REPORT FOR THE THIRD QUARTER ENDED 31 MARCH 2023 (11/1/2)**

(Page 1)

The Chairperson of the Audit Committee presented the audit outcomes on the Municipal internal control environment for the period ended 31 March 2023. The details of the findings are contained in his Report dated June 2023 communicated to Council Members through email correspondence. In his presentation, the Chairperson also cited recommendations on measures which could be implemented to mitigate the risks identified.

Some of the findings highlighted by the Chairperson include the following:

- (i) A need to prioritise and expedite the centralization of the Electricity Unit Information Communications Technology (ICT) systems into the Information Management Unit;
- (ii) Strengthening of Municipal Cyber Systems to ensure former employees exit the system to avoid potential fraudulent activities;
- (iii) Ineffective controls around acquisition management for quotations below R200 000.00 (Two Hundred Thousand Rand);
- (iv) Slow pace in capitalizing work in progress within the Electricity, Engineering and eThekweni Transport Authority Units;
- (v) 60% increase in non-revenue water; low capital spend of critical grants;
- (vi) 59% non-achievement of Key Performance Areas (KPAs) under the Service Delivery and Budget Implementation Plan; 40% of KPAs not structured following the SMART (Specific; Measurable; Achievable; Relevant and; Time-based) principle;
- (vii) Under-capacitated Supply Chain Management Unit
- (viii) Loss of business by the Durban ICC due to the closure of the Hilton Hotel
- (ix) Negative impact on the Durban Marine Theme Park (Ushaka Marine World) financial sustainability as a result of overall negative perception of Durban as a destination

The Executive Committee thereafter noted responses provided by Management in the above regard which responses were reflecting positive progress on matters. For instance, the process started to migrate the ICT systems; improvements made on the controls of the Suprima systems to terminate employees; the assistance solicited from the Internal Audit and; the Auditor-General to structure KPAs to align with the SMART principle; oversight done through reports compiled for National Treasury to track the Auditor-General matters.

Detailed Management responses on all findings raised by the Audit Committee are contained in the Report by the City Manager dated 2023-07-17 and circulated to Council Members through email correspondence.

With the Executive Committee having noted progress made to address the findings by the Audit Committee,

COMMITTEE RECOMMENDS:

That the Audit and Risk Committee Report for the third quarter ended 31 March 2023, submitted in terms of Section 166 (1) of the Municipal Finance Management Act No. 56 of 2003, and Section 14(2)(a) of the Local Government Municipal Planning and Performance Management Regulations 2001, to advise Council on the activities of the Audit and Risk Committee and the results of its quarterly reviews of the systems of internal financial control, internal audit; risk management processes; financial reporting; performance management; governance; compliance with laws and regulations as well as any other issues referred by the Municipality or its Entities; be noted, as per the detailed findings contained in the Report presented by the Audit and Risk Committee Chairperson dated June 2023, and also noting responses thereto as submitted by Management as per the Report by the City Manager dated 2023-07-17, be noted.

Speaking on the Audit Committee Report, the DA referred to historical issues viewed as detrimental to the Municipality's success. These related to water losses; storm water infrastructure; low capital spent; sewer spillage resulting in the closure of Municipal beaches and health hazards etc. Also, that procurement delays; irregular expenditure; non-finalisation of the City Integrity and Infrastructure Unit and Financial Misconduct Disciplinary Board Reports also cripple the operations of the Municipality.

Also commenting on the matter, the ADEC emphasized the importance of the Audit Committee Report, which is considered critical and reflecting concerns similar to those continuously raised by Council members. Mention being made that 60% increase in non-revenue water; 59% non-achievement of Key Performance Areas under the Service Delivery and Budget Implementation Plan as reflected in the Report is indicative that the Municipality is not successfully attending to service delivery issues. A recommendation was then made that mitigating measures to address and clear e these findings of the Audit Committee should form part of the monthly Executive Committee meetings going forward.

The IFP also mentioned that if matters had been adequately attended to, some findings, including infrastructure challenges, would have been resolved and not raised continuously by the Audit Committee. They further mentioned that the timeframes on the Management responses to the Audit Committee findings had lapsed without noticeable improvements. It being emphasized that issues raised by the Audit Committee must be urgently and seriously attended to.

Thereafter, the above recommendations of the Executive Committee were; NOTED.

7. NOTING OF REASONS TO AMEND CONTRACT: 1X-3756 IN TERMS OF SECTION 116(3) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT NO 56 OF 2003 FOR THE RENEWAL OF LEASE OF THE EXISTING OFFICE PREMISES AT THE LION MATCH COMPLEX SITUATED AT 892 UMGENI ROAD, DURBAN FOR A PERIOD OF THREE YEARS (11/2/2/1/2)

(Page 29)

The Executive Committee noted the intention by the Economic Development and Planning Cluster to continue leasing the Lion Match Complex at Umgeni Road for its office premises. During discussion, the Committee reiterated the cost saving which could be realised with the Municipal offices being accommodated in the Municipal-owned building. That this process be fastracked to see tangible outcome in this regard.

Commenting thereon, Management advised of the unsuccessful attempt made to acquire own office accommodation, confirmation being made that this matter is still receiving the necessary attention. Hence, another attempt will be made to go out to the market to source land and/or building to accommodate Municipal offices.

Confirmation having been given that the Lion Match complex is fully utilised by a number of forty-three (43) employees,

COMMITTEE RECOMMENDS:

- 7.1 That Council notes the intention to renew lease agreement in the existing Office premises for the Office of the Deputy City Manager: Economic Development and Planning; Urban Renewal Unit; and Catalytic Projects Unit, at The Platform, Lion Match Complex, 892 Umgeni Road, Durban in total extent of 1 482m², and amend Contract 1X-3756 in terms of Section 116(3) of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003, for another thirty six (36) months, with effect from 01 October 2023 to 30 September 2026, it being noted that such contract amendment is necessary for the following reasons:
- 7.1.1 The premises adequately accommodate various strategic divisions of the Office of the Deputy City Manager: Economic Development and Planning Cluster, including Urban Renewable and Events Office, as well as the Catalytic Projects Unit, which is a “One Stop Shop” service delivery model.
- 7.1.2 As the One Stop Shop, it is the entry point for investors, developers, event organizers and captains of industry that are instrumental in driving the City’s economic development, the physical appearance, proximity is critical for the swift and efficient service turnaround time to stimulate high entrepreneurship, establishment and growth of large investment scope into the City. The current location offers this.
- 7.1.3 The current locations afford the DCM: ECOD’s Office the relevant alignment to a corporate profile through its co-existence within a business park amongst other credible corporates.
- 7.1.4 The move to another location will cause gross business disruptions of service delivery with costs implications that are not budgeted for, with a distortion in business operations in the process.

- 7.1.5 Any relocation will result in the decommissioning and re-installation of IT network and equipment, CCTV surveillance, office dry wall portioning, equipment and fittings, the cost of which maybe fritless and wasteful expenditure considering that a permanent office accommodation is currently being investigated with Real Estate.
- 7.1.6 Relocation may require more operational costs than what the Cluster is currently paying within office rental costs. With the reduction of budgets due to the current economic climate, this may not be possible.
- 7.1.7 The location has adequate capacity and the ability to simultaneously and adequately accommodate multiple big stakeholder meetings and engagements of various role players that play a paramount role in the City's economic development. These range from the DCM: ECOD's Office operational needs of meetings, workshops instead of hiring external venues and daily impromptu stakeholder engagements.
- 7.1.8 The capacity of the current premises is relative to the ratio of the current staff's operational requirements and also has the ability to accommodate new additional staff to be appointed in the Catalytic Projects Office as per Council approval of the Catalytic Projects organogram on the 01st February 2018.
- 7.1.9 The location is not isolated with any security risk and as well maintained within the competitive rental rates.
- 7.1.10 It is accessible to the multidisciplinary stakeholders of the Cluster with a safe and adequate parking to accommodate all NDM vehicles, locomotion staff as well as the various external stakeholders that the Cluster engage with.
- 7.2 That Council notes the public participation process was advertised through media, in terms of Section 116(3) of the MFMA to achieve compliance requirements pertaining to inviting public comments on the proposed contract amendment.

Financial Implications:

Monthly charges excluding VAT, Rates and Taxes, Operating Costs and Utilities.

Basic Rental Monthly	Parking (Monthly)	Basic Rental (Annual)	Period
R191 178.00	R30 600.00	R2 770 536.00	2023-10-01 to 2024-09-30
	R9 100.00		
R205 516.35	R32 895.00	R2 978 326.20	2024-10-01 to 2025-09-30
	R9 782.50		
R220 930.07	R35 362.12	R3 201 700.44	2025-10-01 to 2026-09-30
	R10 516.18		

FC No.: 2024/18/08

Speaking on the matter, the IFP expressed reservations and cited poor planning as the cause for the Municipality to continue spending funds for rental of office space. They further mentioned that the cost savings could be realised with the Municipal offices being accommodated in the Municipal-owned building. The ADEC shared similar sentiments and emphasised that exorbitant funds spent on rentals of office space could indeed be avoided when opting for Municipal-owned office premises.

The ANC then advised of its recommendation and position previously taken that Municipal offices be confined to Municipal-owned land and buildings. That the Real Estate Unit is working with line departments to look for office space even though the process is not moving as quickly as could be anticipated due to various factors and compliance matters impacting the market. It was confirmed that even the Economic Development and Planning Committee has already tapped into the market, but no responsive providers secured thus far. That plans are in place to tap into the market again.

Thereafter, the above recommendations of the Executive Committee were NOTED.

8. REPORT TO APPRISE COUNCIL ON THE MUNICIPAL DEMARCATION BOUNDARIES FORTHCOMING SECTION 27 & 28 PUBLIC CONSULTATION PROCESS (21/1)

(Page 54)

The Executive Committee noted the sensitivity surrounding the issue of demarcating boundaries, particularly, where certain key strategic areas are being moved from the eThekweni Municipal boundaries. In this regard, the Committee agreed that endeavours be made to strengthen the position of eThekweni where objections are being made regarding the removal of certain Wards. That the communities involved be empowered through sharing implications as a result of the proposed demarcation. That this be communicated using all communication avenues of the Municipality for the communities to receive credible information in this regard.

With the Committee emphasizing the importance of protecting key strategic areas of eThekweni, in particular those serving as the economic hub, the significance of empowering the communities was emphasized, and then,

COMMITTEE RECOMMENDS:

- 8.1 That Council notes Circular 2 of 2023 from Municipal Demarcation Board regarding Major Municipal Boundaries determination, attached in the report of the City Manager dated 2023-07-20.
- 8.2 That Councillors be present during the visit of members of Municipal Demarcation Board officials on 23 and 28 August 2023 at Mophela Area and Powers Court Area.
- 8.3 That Council notes the process to deal with Mophela Area and Powers Court Area individual consultation by Municipal Demarcation Board and possible mediation process by Municipal Demarcation Board if there is a disagreement between affected parties.
- 8.4 That, Council further notes proposed amendments to boundaries affecting KwaDukuza Local Municipality, Ndwedwe Local Municipality, Cator Ridge/ Mkhambathini Local Municipality are still under investigation.
- 8.5 That Council resolves to engage the Municipal Demarcation Board on the Mophela proposal on 23 and 28 August 2023, through the Speaker of the Council and the Deputy City Manager: Governance and International Relations.

- 8.6 That Council mandates the Speaker to follow up and finalise the KwaDukuza Local Municipality, Ndwedwe Local Municipality, Cator Rodge/ Mkhambathini Local Municipality matters.

ADOPTED.

9. DRAFT 2024/2025 INTEGRATED DEVELOPMENT PLAN PROCESS PLAN (2/1/6)

(Page 85)

With the Committee noting the process outlined and the new advertising date of 16 August to 16 September 2023,

COMMITTEE RECOMMENDS:

- 9.1 That in line with the requirements of the Municipal Systems Act, No. 32 of 2000, the Draft 2024/2025 Integrated Development Plan (IDP) Process Plan of the eThekweni Municipality, developed to guide the planning, drafting, consultation, adoption and review of the IDP, be noted, as contained in the report by the City Manager.
- 9.2 That authority be granted to the City Manager to advertise the draft 2024/2025 IDP Process Plan for public comment from 2023-08-16 to 2023-09-16 and that all comments received during the public participation process and the regional budget hearings be used to update the Plan prior to submission for approval by Council in September 2023.
- 9.3 That the draft 2024/2025 IDP Process Plan be forwarded to the Honourable MEC for Co-operative Governance and Traditional Affairs for preliminary assessment.

ADOPTED.

10. SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN QUARTERLY REPORT: 30 JUNE 2023 (2/10/1/1/9)

(Page 278)

The Committee noted findings raised by the Audit Committee against the Service Delivery and Budget Implementation Plan Key Performance Areas. In this regard, it was recommended that attention be given to these issues and with Management to assist by tabling the item in a form of a presentation where issues of concern will be highlighted for the Committee to make the necessary interventions.

With the Committee being in support of the proposed arrangement to deal with future reports,

COMMITTEE RECOMMENDS:

That in terms of the Municipal Finance Management Act, Circular No. 13, the Service Delivery and Budget Implementation Plan for the quarter ended 30 June 2023, which reflects achievement rate of 71,82%; with the Entities achieving 83.33% for Inkosi Albert Luthuli International Convention Centre and; 90.48% for the Durban Martine Theme Park (Ushaka Marine World), be noted:

Plan No	Plan Name	Achievement Rate (%)
1	Develop and sustain our Spatial, Natural and Built Environment	93.33%
2	Developing a Prosperous, Diverse Economy and Employment Creation	90.48%
3A	Creating a Quality Living Environment	87.88%
3B	Creating a Quality Living Environment	77.78%
3C	Creating a Quality Living Environment	60.00%
4A	Fostering a Socially Equitable Environment	50.00%
4B	Fostering a Socially Equitable Environment	54.55%
5	Supporting Design, Human Capital Development and Management	80.95%
6A	A vibrant and creative City - the foundation for sustainability and social cohesion	50.00%
6B	Stadia Facilities Unit	50.00%
6C	Agro Ecology	0.00%
7A	Good Governance and Responsive Local Government	75.00%
7B	Good Governance and Responsive Local Government	100.00%
7C	Good Governance and Responsive Local Government	100.00%
8	Financially Accountable and Sustainable City	48.08%
	Achievement Rate	71.82%

Plan No	Plan Name	Achievement Rate (%)
Plan 21	Inkosi Albert Luthuli International Convention Centre	83.33%
Plan 22	Durban Marine Theme Park	90.48%

Speaking on the matter, the DA notwithstanding the Entities achieving 83.33% for Inkosi Albert Luthuli International Convention Centre (ICC) and 90.48% for the Durban Martine Theme Park (Ushaka Marine World), noted with concern that 40% of the Municipal KPIs achieved were below 60%. Pointing out that the shortfalls thereof were related to poor service delivery and reprioritizations of budgets where funding from one critical project is being directed to other critical projects.

Thereafter, the ANC noted the report and submitted that the two (02) Entities, ICC and Ushaka Marine World, as well as the Stadia play a critical role in ensuring tourists attraction for leisure and business. Therefore, the Municipality intended continuing providing the necessary support where required. It was also indicated that negotiations are underway to re-open the Hilton Hotel, which served as the anchor of the ICC events business.

Thereafter, the above recommendations of the Executive Committee were, **NOTED.**

11. REQUEST FOR AUTHORITY TO REPRIORITISE THE 2022/2023 CITY ADMINISTRATION UNIT CAPITAL BUDGET TO PURCHASE ADDITIONAL COMPUTER EQUIPMENT (8/6/1)

(Page 313)

The Committee noted the availability of the Addendum Report responding to issues raised by the Municipal Council at its meeting of 13 July 2023 with regard to the status of laptops within the City Administration Unit. It being advised that the Addendum Report is available for scrutiny in the office of the Head: City Administration.

On this basis,

COMMITTEE RECOMMENDS:

- 11.1 That, given the delays in finalising processes to lead to the commencement of the projects relating to the City Hall Building upgrades, and the Electronic Management System within the City Administration Unit, and thus the surplus funds, while the Unit is in critical need of computer equipment to effectively fulfil its core functions which primarily impact effective provision of Councillor support and effectively managing the Council decision-making process, authority be granted for the Head: City Administration to facilitate the process of reprioritizing the Unit's 2022-2023 Capital Budget for the purpose of purchasing computer equipment.
- 11.2 That Council notes the process referred to in .1 above will result in securing an estimated amount of R1 000 000.00 (One Million Rand) and with the Unit proposing to utilize such to purchase computer equipment to aid effective service delivery within the Unit.
- 11.3 That in view of .1 and .2 above, authority be granted for the Head: City Administration to utilize the amount of R1 000 000.00 identified through budget reprioritization to procure additional computer equipment to enable the Unit to adequately render services and effectively support the Municipal Council operations.

Financial Implications:

FUNDS REQUESTED			FUNDED FROM		
Project Description	Vote No.	Estimated Amount R	Project Description	Vote No.	Amount R
Computer Equipment Vote	32155.44630.30015.0000.PC8300.0010	1 000 000.00	Storm Damage Repair Project	32155.45506.22.30015.0000.G1053.R001	500 000.00
			ERMS Project	32156.42040.30015.0000.G1004.0010	500 000.00
Savings Required					1 000 000.00
Total Estimated Cost		1 000 000.00		Total Estimated Cost	1 000 000.00

Speaking on the matter, the APF whilst in support of the recommendations, however expressed concern on what they viewed as poor quality of computer equipment being purchased by the Municipality. Meanwhile, the ADEC advised the savings have been realised at the expense of the inability to update the City Hall Main Auditorium. That the supply chain management bottlenecks need to be addressed given the serious dent caused in service delivery as a result thereof.

Thereafter, the ANC supported the recommendations and mentioned that the Addendum Report responding to issues raised by the Municipal Council at its meeting of 13 July 2023 with regard to the status of laptops within the City Administration Unit is available for scrutiny. The unfortunate situation to commence with the City Hall upgrades was noted with concern as well, but the ANC also appreciated the approach to redirect the funds to another worthy cause, and the impact on governance processes improvements.

The ANC also advised of advanced consultation with the AMAFA heritage buildings custodian regarding the City Hall upgrades. Also noting comments regarding a need to consider facilitating improvements for the purchase of good quality laptops.

Accordingly, the above recommendations of the Executive Committee were;
ADOPTED.

12. REQUEST FOR APPROVAL TO CHANGE THE VENUE OF IMPUCUZEKO MASIKANDI FESTIVAL FROM THE MAIN MOSES MABHIDA STADIUM TO PEOPLE'S PARK (13/2/1/2/1)

(Page 318)

The Committee was informed of the proposed change of venue to host the Impucuzeko Masikandi Festival. In terms of the initial Council approval the event was due to be hosted by the Moses Mabhida Stadium (MMS) and with the sponsorship amount from the eThekweni Municipality to be transferred to MMS. However, the event organizers have subsequently raised challenges surrounding the security restrictions of MMS which then do not give flexibility for the movement of fans to purchase affordable food. The recommendation is to move the event to the People's Park to allow free movement of the public and this arrangement to also promote local economy through vendors to sell affordable food and beverages.

Given the above proposal, the attention of the Committee was drawn to the fact that People's Park is privately owned, hence, a need to approve the change since the sponsorship amount will now have to be transferred to Impucuzeko Skills and Training Development Non-Profit Organisation.

The DA reminded the meeting of its abstention during the initial discussion of this matter based on uncertainties on the profile of the Directors of this event and the Directors of another separate Masikandi event, which according to them appeared to be the same Directors owning different events and requesting different sponsorship from the Municipality.

Accordingly, with the DA abstaining and the other Parties being in support,

COMMITTEE RECOMMENDS:

- 12.1 That Council notes prior approval it granted for the hosting of Impucuzeko Maskandi Festival for a 3-year period starting from 2022/23 to 2024-25 financial year and to allocate sponsorship amount of R3 033 520.04 (Three Million and Thirty-Three Thousand Five Hundred and Twenty Rand Four Cent) to be allocated for this purpose, and the event being scheduled to take place at the Moses Mabhida Stadium.

- 12.2 That, given a request by the event organizers based on the Moses Mabhida Stadium security restrictions limiting movement of fans, Council grant authority for the Deputy City Manager: Community and Emergency Services to facilitate the change of venue for the Impucuzeko Maskandi festival to be now hosted at the privately-owned People Park.
- 12.3 That, subject to the approval of .2 above, Council notes the sponsorship amount of R3 033 520.04 (Three Million and Thirty-Three Thousand Five Hundred and Twenty Rand Four Cent) will now be transferred to Impucuzeko Skills and Training Development Non-Profit Organisation.

Financial Implications:

Item	Amount	Vote Number
Artist payments	R3 003 520.04 which will be paid through Impucuzeko skills and training development NPO for coordination of the event and services	14001.11450.12120.0000.38300.0010 Provided 2023/2024
Sound and technical		
Infrastructure		
Security		

FC No: 32/261

Commenting on the matter, the DA whilst noting the significance of the Impucuzeko Masikandi Festival for the Nguni ethnic group, however expressed concern on what they cited as unprofessional and poor workmanship from the service provider. This pertaining to the marquee and sound system infrastructure, also non-availability of ablution facilities during the event. That the safety of attendees was compromised. Lack of dedicated parking facility as well as firearms detectors were also considered contributing to risk for the event. Mention being made that the decision to change the venue from the Moses Mabhida Stadium to People Park needs to be revisited. The DA then requested a report comprising costs breakdown per line item to establish value for money for this event. On this basis the DA abstained on the matter.

On the other hand, the APF declared that the event was a success, and that the public, specifically, the African people, were delighted of the Municipality's support for the event. Also commenting, the ATM submitted that it was not appropriate for some Council members who voted against the hosting of this event later come back to submit negative comments and/or reviews about the same event.

Meanwhile, the ADEC stressed the importance of engaging event organizers to utilise Council venues that will be suitable and meet the demands for specific events to successfully achieve intended deliverables. That maximizing private partnerships be explored to source sponsors for these events in the near future.

Thereafter, the ANC submitted that the event was initially held at the Moses Mabhida Stadium (MMS). However, the event organizers subsequently raised challenges surrounding the security restrictions in MMS which then do not give flexibility for the movement of fans to purchase affordable food. A proposal being made to move the event to the People's Park to allow free movement of the public and this arrangement to also promote local economy through vendors to sell affordable food and beverages. They also noted the concerns as raised by the DA and with assurance being given that improvements will be made going forward.

However, as some members were not in support of the recommendations; the matter was put to the vote. With 173 Councillors present, 130 Councillors (ANC - 80, EFF – 18, IFP- 13, Action SA - 03, ABC – 02; ACC – 01, ACDP – 01, AIC- 01, ADEC – 01; DLC – 00, APF – 01; ATM - 01; ALJAMAH – 00; JEP -01; KZNI – 01, MF – 01, MOSA- 00 NFP - 01; PFP – 01, PRM – 01, TA- 00, UIM – 01 and VF Plus - 01) voted in favour of the recommendations. 43 DA Councillors abstained on the matter.

Thereafter the above recommendations were by a majority vote, **ADOPTED.**

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

SECOND REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2023-08-11)

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

1. REPORT OF THE GOVERNANCE AND HUMAN RESOURCE COMMITTEE:
MEETING HELD: 2023-07-19

(Page R1)

1.1 Employment Equity Policy Review (4/3/3/P):
(Page 13: Governance and Human Resource Committee - Agenda 2023-07-19)

The Committee received the report to approve the reviewed Employment Equity Policy. The Members were advised that the Policy was approved by Council at its meeting held on 06 December 2018 in line with the City's strategic goals in terms of meeting Employment Equity targets as well as creating an environment that encourages diversity, equity, inclusion and belonging. The Act gives recognition to the imbalances of the past in relation to terms and conditions of employment contracts, including disparities in occupational status and income levels in the labour market. Consequently, it became imperative for the organisations to develop an Employment Equity Policy to comprehend the Act and with a view to achieving equity in the workplace.

The Employment Equity Policy of the eThekweni Municipality aims to achieve the following objectives:

- To promote equal opportunity and fair treatment through the elimination of unfair discrimination.
- To implement Affirmative Action measures to redress the disadvantage in employment experienced by designated groups and to ensure their equitable representative in all occupational levels in the workforce.
- To empower all its employees through substantive and procedural compliance with the Employment Equity Act. This includes the implementation of plans which are drawn up in consultation with and communicated to key stakeholders; and
- To ensure that Employment Equity is fully integrated with the Municipality's strategic objectives and business initiatives to improve service delivery.
- To include and submit an income differentials statement to Department of Employment & Labour on the remuneration and benefits received in each occupational level.

During consideration at the Executive Committee level, it was recalled that the Committee deferred this matter at its 10 August 2023 meeting to enable Members to go through the policy document and thereafter make a meaningful contribution. The Committee was informed that the Policy has been largely reviewed to align with the Government Gazette of 2023 where issues of harassment have been broadened to go beyond sexual harassment but include all other kinds of harassment in the workplace. This narration was then reiterated in this meeting to put the policy review into context.

Speaking on the matter, the DA appreciated the intended objectives of developing a policy of this nature, including bridging the employment gaps created by the past practices. However, that the policy could not be implemented in perpetuity since there should be a target set to be reached at some point. In this view, the DA questioned the current target figures in terms of employment equity in eThekweni Municipality.

Commenting on this matter the Chairperson of the Governance and Human Resources Committee first clarified that employment equity goes beyond issues of race, but also aims to provide justice for women; people with disabilities etc. That the discriminatory practices of the past and disparities thereof impacted different categories, hence the importance for fair and equitable access to employment opportunities by all, irrespective of gender; race; disability etc. That the primary objective is for employment opportunities to be all-inclusive.

For broader empowerment and oversight, the Committee Chairperson advised of planned workshops on the reviewed Employment Equity Policy where the Governance and Human Resource Committee will interact with the other Support Committees in this regard or with the relevant officials engaging Political Party Caucuses on the revised policy.

The Executive Committee appreciated explanation given and therefore the majority of the Parties supported the Policy review. The DA abstained on the matter, but with the majority being in support,

COMMITTEE RECOMMENDS:

That Council approves the revised eThekweni Municipality Employment Equity Policy, attached herein and to the report by the Deputy City Manager: Corporate and

Human Capital dated 2023-06-6, for subsequent implementation by the Corporate and Human Capital Cluster, with a view to achieving the following objectives:

- i) To promote equal opportunity and fair treatment through the elimination of unfair discrimination.
- ii) To implement Affirmative Action measures to redress the disadvantage in employment experienced by designated groups and to ensure their equitable representative in all occupational levels in the workforce.
- iii) To empower all its employees through substantive and procedural compliance with the Employment Equity Act. This includes the implementation of plans which are drawn up in consultation with and communicated to key stakeholders; and
- iv) To ensure that Employment Equity is fully integrated with the Municipality's strategic objectives and business initiatives to improve service delivery.
- v) To include and submit an income differentials statement to Department of Employment & Labour on the remuneration and benefits received in each occupational level.

REFERENCE BACK

In terms of Rule of Order Bylaw 20(1)(c), Councillor TM Mthethwa seconded by Councillor M Billy from the DA, moved as a procedural motion that, “Employment Equity Policy Review (4/3/3/P)”; be referred back to the Committee for Councillors to be workshopped on the contents of the policy.

NOT CARRIED

As some members were not in support of the reference back, the matter was put to the vote. With 172 Councillors present, 51 Councillors (DA- 44; Action SA - 03; ACC - 01, ACDP – 01; MF - 01 and VF Plus – 01) voted in favour of the reference back and 121 Councillors (ANC - 81, EFF – 19; IFP -14; ABC – 02; AIC – 01, DLC – 00; ADEC – 00; APF – 00; ATM - 00; ALJAMAH – 00; JEP -01; KZNI - 01, MOSA – 00; PRM -01; NFP -01; PFP – 00, TA- 00 and UIM – 00) voted against the reference back. There were no abstentions recorded.

The above-mentioned motion to refer back was, by the majority vote, NOT CARRIED.

Discussion thereafter reverted back to the substantive matter, wherein, the DA submitted that all indications show that the Municipality is currently in distress and that no drastic actions are being taken to rescue the situation. Mention being made that the Employment Equity Policy relates to equity plan within workplace. The DA pointed out that the Municipality had lost competent and employees with extensive experience in the past due to the working environment not being conducive for their growth. They were also of the view that the Policy was biased towards cadre deployment, and which leads to the City not being able to perform exceptionally in terms of its service delivery mandate. On this basis, they dissented against the recommendations.

Also commenting on the matter, the AIC supported the recommendations and recommended the inclusion of specific clear targets and timelines for women emancipation and employment opportunities in key strategic positions, thereby ensuring fair and equitable access.

The EFF also welcomed the report and then encouraged women emancipation and that people living with disabilities must also be considered for employment opportunities. Meanwhile, the ActionSA dissented, citing they had not had sight of the contents of the Policy. This was corrected by the IFP though confirming the workshop conducted on this Policy at the Support Committee level.

Thereafter, the ANC submitted that the report pertained to the review of the already existing Policy. With the review being informed by the necessary alignment with the Government Gazette of 2023 where issues of harassment have been broadened to go beyond sexual harassment but now include all other kinds of harassment in the workplace. Also, that the Policy draws from the elements of the Employment Equity Act, with the aim of setting targets as well as creating an environment that encourages diversity, equity, inclusion and belonging. Further, that the Policy intends redressing the imbalance of the past for occupations to be accessed by all with no limitations other than the job speciality requirements.

The ANC further clarified that employment equity even goes beyond to provide justice for women, people with disabilities etc. That the discriminatory practices of the past and disparities thereof impacted different categories, hence the importance for fair and equitable access to employment opportunities by all, irrespective of gender; race; disability etc. That the primary objective was for employment opportunities to be all-inclusive. It was reiterated that workshop on the reviewed Employment Equity Policy was convened for the Governance and Human Resource Committee. It was further stated that the aforementioned Committee will even go further to interact and conduct workshops for other Support Committees or with the relevant officials engaging Political Party Caucuses on the revised policy.

As some members were not in support of the recommendations, the matter was put to the vote. With 177 Councillors present, 127 Councillors (ANC - 80, EFF - 19, IFP- 15, ABC - 02; ACDP - 01, AIC- 01, ADEC - 00; APF - 00; ATM - 00; ALJAMAH - 01; JEP -01; KZNI - 01, MF - 01, MOSA- 01, NFP - 01; PFP - 01, PRM - 00, TA- 01 and UIM - 01) voted in favour of the recommendations. 50 Councillors (DA - 45, Action SA - 03, ACC - 01 and VF Plus - 01) voted against the matter. There were no abstentions recorded.

Thereafter the above recommendations were by a majority vote, **ADOPTED.**

2. ETHEKWINI MUNICIPALITY FINAL ADJUSTMENT BUDGET 2022/2023
(7/1/2/2)

(Page 1)

Authority is sought to approve the 2022/23 Medium Term Revenue and Expenditure Framework (MTREF) final adjustments in terms of Section 28 of the Local Government: Municipal Finance Management Act No. 56 of 2003 and the Municipal Budget and Reporting Regulations.

The final budget adjustment submission is mainly informed by the additional expenditure requests and reallocation of expenditure. It being noted that grant revenue has been revised downward for Public Transport Network Grant, Neighbourhood Development Grant, Public Employment Programme Grant and Urban Settlements Development Grant. That the Housing Grant as Housing Top Structure projects are

transferred to housing construction expenditure. The adjustments also cover the unbundling of blocksum to specific projects.

With the approval to extend the Expanded Public Works Programme having been subjected to availability of funds, confirmation has been given that through this process necessary savings have been identified. The adjustment also caters for non-cash relative to debt impairments, medical aid provision and long service provisions. The finalization of this process will enable the Municipality to finalise the Annual Financial Statements (AFS) with balanced figures prior to submitting draft AFS to the Auditor-General before end August 2023 for audit purposes.

Total adjusted Budget for 2022/23 has been revised as follows:

Consolidated Budget (including entities)

Details	February Adjusted Budget 2022/23	Final Adjusted Budget 2022/23
	R'000	R'000
Operating Budget	51 174 084	53 184 266
Capital budget	6 111 447	5 305 340
Total Budget	57 285 531	58 489 606

Parent Municipality (excluding entities)

Details	February Adjusted Budget 2022/23	Final Adjusted Budget 2022/23
	R'000	R'000
Operating Budget	50 679 311	52 706 100
Capital budget	6 054 297	5 254 740
Total Budget	56 733 608	57 960 840

During deliberations, the IFP undertook to engage the Finance Team to present the adjustments budget to enable the Party to make an informed decision in this regard. The EFF undertook to make similar arrangements and therefore both the IFP and the EFF abstained on this matter at this stage pending the briefing mentioned. However, in the meantime, the IFP expressed concerns about the high fuel costs, and with the ANC noting such, a recommendation was then made that the Council needs to implement vigorous cost containment measures in this regard and in all other Municipal operations.

The DA dissented on the matter citing that while there are some good measures in the budget but this final budget adjustment is inclusive of items which they did not support in the past and therefore maintaining their stance on the matter.

The ANC (04) and the NFP (01) supported the adjustments budget taking into account this was critical in accelerating service delivery. The DA (03) voted against the matter. The EFF (01) and the IFP (01) abstained on the matter.

Accordingly, by the majority vote,

COMMITTEE RECOMMENDS:

That in accordance with the provisions of Section 28 of the Local Government: Municipal Finance Management Act No. 56 of 2003, and in compliance with the Municipal Budget and Reporting Regulations, the additional adjustments to the 2022/2023 Budget of the eThekweni Municipality (Parent Municipality) as reflected in Annexure 'A' (Operating Adjustments Budget); Annexure 'B' (Non-Cash Items); and Annexure 'C' (Capital Adjustment Budget) in the report of the City Manager dated 2023-08-07, be approved, it being recorded that the approval of the Capital Adjustments Budget constitutes project approval of the specific projects, with the adjustments budget being summarised in the table below:

Consolidated Budget (including entities):

Details	February Adjusted Budget 2022/23	Final Adjusted Budget 2022/23
	R'000	R'000
Operating Budget	51 174 084	53 184 266
Capital budget	6 111 447	5 305 340
Total Budget	57 285 531	58 489 606

Parent Municipality (excluding entities):

Details	February Adjusted Budget 2022/23	Final Adjusted Budget 2022/23
	R'000	R'000
Operating Budget	50 679 311	52 706 100
Capital budget	6 054 297	5 254 740
Total Budget	56 733 608	57 960 840

Speaking on the 2022/2023 final adjustment budget, the DA were of the view that the Municipality is in financial crisis, and indication being given that this emanates from the financial reports, including findings of the Auditor-General. They cited what they believed to be some of the hinderances to service delivery, including shortfalls on the Service Delivery and Budget Implementation Plan; storm water blockages, non-functional streetlights, and uncollected refuse for prolonged periods, and that officials were not being provided with sufficient tools of trade to perfume their duties.

The DA further submitted that the Municipality had lost R 100 million each from the Public Transport Network Grant (PTNG), Neighbourhood Development Partnership Grant (NDPG), Urban Settlement Development Grant (USDG) as well as the Public Employment Programme Grant. Therefore, the Municipality ends up cutting expenditure for its critical core functions, including maintenance of infrastructure, etc. The lack of implementation of consequence management, and prolonged vacant Senior Management positions were also considered concerning. In view thereof, the DA was not in support of the adjustment budget.

Also joining the discussion, the ActionSA cited poor planning and underspending as a cause for the Municipal budget being re-adjusted. That the Municipal leadership should be hold accountable for what they viewed as reckless decisions taken on critical budget items. Reference being made to approval of Expanded Public Works Programme with a budget shortfall.

Also commenting on the matter, the IFP mentioned that the Municipality has apparently failed to provide adequate services to its residents, citing that some Parties prioritize own political agendas rather than key Municipal operational challenges. In this view the IFP indicated non-support of the adjustments budget.

The ANC then advises of the objectives of the adjustments budget which was a compliance requirements to balance the budget records after movement of funds for worthy causes This then informing the Annual Financial Statement to be submitted to the Auditor-General for audit purposes. The ANC then drew attention that most of the budget adjustments is informed by the budget reprioritization which focused on economic recovery following the triple disaster which befell the City of eThekweni. The Council being reminded that of the past unanimous view to speedily restore the City of eThekweni after these disasters. The ANC then quantified the damages suffered and the immediate restoration thereof, and with the Municipal leadership and critical service delivery Units being applauded for working around the clock to restore the City.

The ANC commended Council Members supporting the EPWP in view of the impact the Programme brings in terms of alleviating poverty and supplementing the Municipal resources for service delivery purposes. On the issue of grant funding, the attention was drawn to some transferred late due to late conclusion of negotiations as there have been some disagreements in certain aspects. That the late arrival then impacted the spend and the financial record in the Municipal books. However, that despite the challenges, the USDG grant sat at 60% achievement compared to its other counterpart sitting at 40% spend. Some of the achievements as a result of the USDG Grant was the construction of new recently opened Tshelimnyama Municipal Library amongst other projects.

Thereafter, as some members were not in support of the recommendations; the matter was put to the vote. With 178 Councillors present, 115 Councillors (ANC - 83, EFF – 19, ABC – 02; ACC – 00, AIC- 01, ADEC – 00; DLC- 00; APF – 01; ATM - 01; ALJAMAH – 01; JEP -01; KZNI – 01, MOSA- 01, NFP - 01; PFP – 01, PRM – 01 and TA- 01) voted in favour of the recommendations. 62 Councillors (DA – 42, IFP -14, Action SA - 03, ACDP – 01, UIM – 01 and VF Plus – 01) voted against the matter. 1 MF Councillor abstained on the matter.

Thereafter the above recommendations were by a majority vote, **ADOPTED,**

3. BUDGET PREPARATION PROCESS 2024/2025 – 2026/2027 SCHEDULE OF KEY DEADLINES (7/1/2/1)

(Page 178)

The Committee received a schedule of key deadlines for the 2024/2025-2026/2027 financial years budget preparation process. This is in line with Section 21 of the Local Government: Municipal Finance Management Act No 56 of the 2003 which requires the Mayor of the Municipality to table the schedule of key deadlines for the budget preparation process before the Municipal Council ten (10) months before the start of the financial year. It being noted that the submission outlines the following:

- The preparation, tabling and approval of the annual budget,
- the annual review of the Integrated Development Plan and other Budget Related Policies,

- the tabling and adoption of any amendments to the IDP and Budget related policies, and
- any consultative process forming part of the processes referred above.

The actual schedule of key budget process deadlines is contained under the recommendations. Mention was made that where there are changes in dates based on the nature of the engagements unfolding at a particular point in time, the specific dates will be amended accordingly, but not deviating from the overall prescribed deadlines.

With Members being in support,

COMMITTEE RECOMMENDS:

3.1

That Council notes the schedule of key deadlines in respect of budget preparation and associated processes, including the Integrated Development Plan (IDP); Service Delivery and Budget Implementation Plan; Performance Management; and Annual Report processes for the 2024/2025 - 2026/2027 financial years, submitted in compliance with the requirements of Section 21 of the Local Government: Municipal Finance Management Act No. 56 of 2003 and, which process is outlined in detail in the report by the City Manager dated 2023-08-07, with the synopsis thereof being recorded as follows:

KEY BUDGET PROCESS DEADLINES:

Key deadlines	Target
Schedule of key deadlines for budget preparation and approval	31 August 2023
Budget Planning: <ul style="list-style-type: none"> ➤ IDP Budget Priorities and strategic planning to improve service delivery. ➤ Public Participation – Community Budget participation on formulating the draft budget e.g., Capital projects. ➤ Prepare Quality Assurance Certificates for 2024/2025 Capital Projects. CPAS/ Departments/Ward Councillor's – Road shows/Budget participation comments.	During August/ September
Strategic Planning Workshops: <ul style="list-style-type: none"> ➤ Review of previous years' spending and commitments to inform 2024/2025 MTREF – Financial and Non-Financial. ➤ Draft Budget Principles which will inform budget process and identify key priorities including strategic objectives for service delivery. ➤ Budget prioritization discussion on capital and operating budgets. ➤ Integrated Asset Management Plan and Strategic Asset Management Plan IDP review process determines strategic objectives for service delivery and development for next three-year budgets including review of provincial and national government sector and strategic plans. Administrative workshops/Political Leadership workshop	15 – 30 September 2023
Capital Budget Approval in principle by Council.	07 December 2023
Adjustment Budget for 2023/2024.	29 February 2024

Key deadlines	Target
Mid-year budget and performance – NT.	February/March 2024
Draft budget with tariff increases tabling.	28 March 2024
Consultative process on budget – all stakeholders.	During April and May
National Treasury benchmark.	April/May
First approval of Budgets.	30 May 2024
Approval of SDBIP	23 June 2024

3.2 That Council notes the deadlines incorporate specific processes including preparation, tabling and approval of the annual budget; the annual review, tabling and adoption of any amendments to the IDP and the budget related policies; and any consultative engagements forming part of the processes.

3.3 That Council notes that progress reports will be submitted to the respective Council Committees during the course of the budget process.

ADOPTED.

4. CAPITAL BUDGET AND REHABILITATION DISASTER GRANT (7/4/2)

(Page 214)

Authority is sought for the transfer of the reconstruction and rehabilitation grant that remains unspent in the 2022/23 financial year into the 2023/2024 financial year. It was recalled that on 17 March 2023, the City received a grant allocation of R1 500 000 000.00 (One Billion Five Hundred Million Rand) to undertake all storm related damages. The implementing departments were allocated R238 000 000.00 (Two Hundred and Thirty-Eight Million Rand) in the mid-year adjustment budget.

The breakdown of the grant allocation in the 2022/23 financial year was as follows:

- Water and Sanitation – R134 000 000.00 (One Hundred and Thirty-Four Million Rands)
- Engineering – R103 000 000.00 (One Hundred and Three Million Rand)

The City received funding with conditions that the projects should be completed within twelve (12) months. However, with funding having been received three (03) months prior to the end of the financial year, an agreement was reached that the implementation will cut across two financial years. It was then confirmed that the Municipality now has a deadline of March 2024 to complete the floods damages projects. Confirmation has been given that the procurement processes have been completed for the majority of the projects and that these are now at the implementation stage.

With the Committee being in support and appreciating positive progress made,

COMMITTEE RECOMMENDS:

That in accordance with the provisions of Section 28(2)(e) of the Local Government: Municipal Finance Management Act No. 56 of 2003, and in compliance with the Municipal Budget and Reporting Regulations, the Adjustments to the 2023/2024 Budget of eThekweni Municipality (Parent Municipality), for the inclusion of 2022/2023 unspent Reconstruction and Rehabilitation Disaster Grant into the

2023/2024 financial year as reflected in Annexure “A” & “B” in the report of the City Manager dated 2023-08-01, be approved, and it being recorded that the approval of the Capital Adjustment Budget constitutes project approval of the specific projects.

Speaking on the matter, the ActionSA whilst in support of the recommendations, requested assurance that funds will be utilised by March 2024 to address infrastructure challenges, as outlined on the report. Emphasis being put that some of the funds be directed to address sewer spillages.

The ANC then confirmed that grant funding of R1 500 000 000.00 (One Billion Five Hundred Million Rand) will focus on storm-related damages. Confirmation being given that timelines have been agreed to taking into account late receipt of grant funding from National Treasury. It being confirmed then that the deadline of March 2024 is being monitored by National Treasury as per the commitment made by the Municipality to floods damages projects. Confirmation was also given that procurement process for all projects have been completed for most of the projects, but that oversight will have to be undertaken to ensure projects proceed according to approved plans and that value for money is obtained.

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

5. REQUEST FOR APPROVAL OF URGENT AMENDMENTS TO THE
ETHEKWINI MUNICIPALITY: SUPPLY CHAIN MANAGEMENT POLICY 2023
(9/P)

(Page 231)

Authority is sought to approve urgent amendments to the eThekweni Municipality Supply Chain Management (SCM) Policy 2023. That this seeks to correct some of the existing regulations within the SCM policy which has had negative impact on service delivery. Empowered by Section 217 of the Constitution of the Republic of South Africa of 1996, the Municipality has intentions of procuring goods and services in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

Management advised of the overall review of the SCM Policy to be submitted for consideration during October 2023. That the urgent amendments proposed are aimed at clearing bottlenecks in certain aspects of service delivery.

The proposed urgent amendments are recorded as follows:

- Removal of Section 49(3) of the Supply Chain Management Policy of 2022 in order to discard the 48-hour period of appeal by the suppliers aggrieved of the decision when undertaking emergency procurement in terms of Section 36 of the MFMA. This proposal being of a critical nature during the times of natural disasters and with this Section hindering service delivery.
- Proposal to remove Section 52(5) (c) of the SCM Policy of 2022 in order to discard the regulation allowing Municipalities to seek approval from National

Treasury prior to declaring second non-award of tender. This proposal is informed by the provisions of the Preferential Procurement Regulations which came into effect on 16 January 2023 stating that organs of state are no longer required to seek prior approval from the relevant Treasury when cancelling a tender invitation for the second time.

- Proposed amendment of Section 58 (3) of the SCM Policy of 2022 which grants powers to the Executive Committee to approve special deviations. Taking into consideration that Councillors are not permitted to process procurement matters. Confirmation being also given that notwithstanding the presence of this Section in the policy but the Executive Committee has never approved any special deviations.

During discussions, the majority of Committee Members welcomed and greatly applauded the proposed amendments to the Supply Chain Management Policy, citing that this will provide the City with much-needed capabilities and also elimination of delays in procurement processes, particularly, for emergencies purposes. Attention being drawn to various backlogs to service delivery matters due to prolonged SCM processes within the Unit.

However, the DA submitted that with Council having already reduced the period of appeals from fourteen (14) days to forty-eight (48) hours, the further removal of the latter will create loopholes and with no oversight and control in terms of determining value for money and other significant controls necessary in the tender process, in particular with the usage of Section 36 of the MFMA. In this view the DA dissented as they perceived tender anomalies as a result of the removal of the appeal period.

Accordingly, the DA (03) voted against the amendments and with the ANC (04), EFF (01), IFP (01) and NFP (01) being in support,

COMMITTEE RECOMMENDS:

That, in order to empower the eThekweni Municipality to fastrack service delivery, but within the framework of the Supply Chain Management processes, authority be granted for the Accounting Officer to amend the eThekweni Municipality: Supply Chain Management (SCM) Policy, 2023 as follows:

- (a) Removal of Section 49(3), to eliminate an appeal period on emergency procurements thereby achieving quick turnaround time to respond to crisis.
- (b) Removal of Section 52(5) (c), in line with the requirements of the Preferential Procurement Regulations, 2022, which came into effect on 16 January 2023, relieving Municipalities from a duty to seek prior approval from the relevant Treasury when cancelling tender invitations for a second time.
- (c) Amendment of Section 58(3), which is not relevant on the aspect relating to the Executive Committee approving special deviations from the SCM Policy, and this being informed by the prohibition of Councillors from participating in the SCM processes, as per the provisions of Section 117 of the Local Government: Municipal Finance Management Act No. 56 of 2003.

MOTION TO AMEND was submitted as follows: -

In terms of Rule of Order By-Law 20(4), Councillor TM Mthethwa seconded by Councillor Y Govender, both from the DA moved as a procedural motion to amend the above recommendations by deletion of the following clause on the recommendations: -

“(a) Removal of Section 49(3), to eliminate an appeal period on emergency procurements thereby achieving quick turnaround time to respond to crisis.”

NOT CARRIED

As some members were not in support of the Motion to Amend, the matter was put to the vote. With 176 Councillors present, 45 Councillors (DA – 42, Action SA - 02 and VF Plus – 01) voted in favour of the amendment and 116 Councillors (ANC - 81, EFF – 19, ABC – 02; ACC – 01, ACDP – 01, AIC- 01, ADEC – 00; DLC – 00; APF – 01, ATM - 01; ALJAMAH – 01; JEP -01; KZNI – 01, MOSA- 01; NFP - 01; PFP – 01, PRM – 01 , TA- 01 and UIM - 01) voted against the amendment. 15 Councillors (IFP - 14 and MF- 01) abstained on the matter.

Therefore, the above-mentioned Motion to Amend was, by the majority voted, **NOT CARRIED**.

Discussion thereafter reverted back to the substantive matter, wherein, the DA maintained the removal of Section 49(3), citing that this would eliminate misuse or abuse of Section 36 of the MFMA, and expected that all Councillors would support such amendment. Whilst noting that Section 36 is to be utilised for emergency purposes to achieve quick turnaround time to respond to crisis however, the DA felt that the addition of Section 49(3) might pose a risk within the procurement processes in terms of potential fraudulent activities and exploitation of public funds. Emphasis being put in that the Municipality is expected to conduct its business in a transparent and competitive manner. In this regard, the DA voted against the matter.

Speaking thereon, the EFF supported the amendment and appreciated that this intended fastracking service delivery due to unblocking bottlenecks in the procurement process. On the issue of potential fraudulent activities, the EFF encouraged elimination of this disease that perpetrators be reported accordingly.

The ANC confirmed that the amendments proposed as this was considered a progressive move. That the removal of forty-eight (48) hours appeal period for instance will enable the Municipality to swiftly proceed with urgent service delivery work. Attention being drawn that the removal of Section 52(5) (c) is in line with the requirements of the Preferential Procurement Regulations, 2022, thus relieving the Municipality from a duty to seek prior approval from the relevant Treasury when cancelling tender invitations for a second time. Lastly, that the amendment relating to Section 58(3) is also necessary to achieve compliance requirements as this promotes elimination of Councillors' involvement in procurement processes. Therefore, the ANC considered the amendment straightforward and reasonable whilst also rescuing the Municipality to fastrack service delivery procurement activities.

As some members were not in support of the recommendations; the matter was put to the vote. With 184 Councillors present, 135 Councillors ANC - 84, EFF - 20, IFP- 14, ABC - 02; ACC - 01, ACDP - 02, ADEC - 00; AIC- 01, DLC - 00, APF - 00; ATM - 01; ALJAMAH - 01; JEP -01; KZNI - 01, MF - 01, MOSA- 01 NFP - 01; PFP - 01, PRM - 01, TA- 01 and UIM - 01) voted in favour of the recommendations. 46 Councillors (DA - 45 and VF Plus - 01) voted against the matter. 3 - Action SA Councillors abstained on the matter.

Thereafter the above recommendations were by a majority vote, **ADOPTED.**

(At this stage of the proceedings Councillor CB Dlamini, in his capacity as the Member of the Municipal Public Accounts Committee, presented the report of the Committee).

REPORT OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

2022/2023:
Quarterly
Report:
MPAC

March 31

2023

1. 2022/2023 ANNUAL REPORT OF THE MPAC

That the Annual Report of the Municipal Public Accounts Committee detailing the activities of the Committee for the 2022/2023 financial year as contained in the Council Agenda (2023-08-15), be noted.

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1. CHAIRPERSON'S STATEMENT

The 2022/2023 financial year was a challenging one for the Municipal Public Accounts Committee due to vacancies and various changes in the membership of the Committee which gave rise to us not always meeting the quorum requirements. Whilst this impacted on the number of our meetings, we are grateful for the dedication of those MPAC members who made every effort to be present so that we could continue with our oversight duties.

We are pleased to note that as of 31st May 2023, we have a full complement of MPAC members and extend a hearty welcome to Councillor CB Dlamini who served on MPAC in prior terms of office. He brings with him vast experience and was also elected as our Deputy Chairperson on 22nd June 2023.

As the primary aim of MPAC is to ensure that there is good governance, proper service delivery, sound financial management and a clean administration, we are all committed to undertaking our oversight responsibility in order to attain these goals.

It is our pleasure to therefore present to you the Annual Report of the Municipal Public Accounts Committee which records the activities of the Committee during the 2022/2023 financial year.

Thami Xuma
Chairperson: Municipal Public Accounts Committee
eThekweni Municipality

2. MEMBERSHIP OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

Members of the Municipal Public Accounts Committee (MPAC) are non-Executive Members of Council. The Mayor, Members of the Executive Committee, Speaker and the Whip of Council may not serve on MPAC. Councillors serving on MPAC do not serve on other Committees of Council to minimise possible conflicts of interest.

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

The current membership of the Committee is therefore as follows:

NO.	SURNAME	NAMES	DESIGNATION	PARTY
1.	Xuma	Thamisanqa	Chairperson	EFF
2.	Dlamini	Conrad Bongumusa	Deputy Chairperson	ANC
3.	Beesley	Alan David	Member	ActionSA
4.	De Boer	Shontel	Member	DA
5.	Fortein	Barbara	Member	ANC
6.	Gama	Sizeni Gladness	Member	ANC
7.	Kissoon	Alicia	Member	DA
8.	Mkhwanazi	Brenda	Member	ANC
9.	Naidoo	Jane	Member	IFP
10.	Sibisi	Siboniso	Member	DA
11.	Thusi	Muzikayise	Member	ANC

The following changes in membership took place during the 2022/2023 financial year:

1. Councillor TP Collins passed away in August 2022 and was replaced by Councillor A Kissoon who was appointed as an MPAC Member on 29 September 2022.
2. Councillor A Beetge left MPAC to join the Executive Committee on 1st October 2022. He was replaced by Councillor S Sibisi on 27th October 2022.
3. Councillor SP Ngcobo resigned from Council as of 1st November 2022 resulting in one vacancy on the Committee.
4. Councillor P Mkhize resigned from Council as of 1st March 2023 resulting in two vacancies on the Committee.

5. Councillors MR Mngonyama and B Mkhwanazi were appointed as MPAC members on 30th March 2023.
6. Councillor MA Jokweni left MPAC to join another Committee on 30th March 2023 resulting in one vacancy on the Committee.
7. Councillor MR Mngonyama left MPAC to join another Committee on 26th April 2023 and was replaced by Councillor SG Gama on even date.
8. Councillor CB Dlamini was appointed as an MPAC Member on 31st May 2023.

3. ROLE OF THE COMMITTEE

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.

The Committee's activities include a mix of self-initiated enquiries and referred enquiries. The Committee receives submissions and conducts briefings and hearings on such matters as required.

Together with the usual reports outlined in the Committee's Terms of Reference and reports featured in the Work Programme of the Municipal Public Accounts Committee, there are also issues pertaining to the monitoring of the implementation of Committee's recommendations to Council; the effective execution of consequence management throughout the City, more vigorous oversight over the implementation of the action plan in response to the audit findings, supply chain management oversight, monitoring of the performance of plan owners as well as oversight in respect of financial management.

MPAC strongly believes that consequence management will circumvent fraud, corruption and maladministration as well as enhance good governance.

Effective participation in the work of the Municipal Public Accounts Committee makes huge demands on the time and energy of members. 31 Committee meetings were held during the 2022/2023 financial year and it is important to note the considerable volume of reading and preparation that has to be undertaken by members for these meetings. It must be highlighted that Members of the Committee are part time Councillors, some of whom are also Ward Councillors.

Summary of Committee Activities for 2022/2023:

Activity	Number
Reports Tabled	153
Deliberative Meetings	22

Interviews with officials	162
Hearings	4
Briefings	Nil
Witnesses Appearing	Nil

4. REVIEW OF THE IMPLEMENTATION OF THE 2021/2022 RECOMMENDATIONS

The Municipal Public Accounts Committee highlights its recommendations to the Council arising from the interrogation of the Annual Report and its examination of the management of municipal funds and assets throughout the year. The purpose of these recommendations is to draw attention to issues which, in the opinion of the Municipal Public Accounts Committee, warrant follow up action. The Committee believes that it is considerably important for its recommendations to Council to be actioned as this will go a long way in achieving a clean audit outcome and ensure good governance in the Municipality. These issues raised include:

- Annual Financial Statements
- Expenditure Management
- Consequence Management
- Procurement and Contract Management
- Internal Control Deficiencies
- Material Irregularities in Progress
- Bad Debt Provision and Write-Off of Bad Debt
- Material Water Losses
- Material Electricity Losses
- Material Findings on Various Indicators
- Adjustment of Material Misstatements in respect of Annual Performance on Plan 3

To enable systematic implementation of its recommendations, Committee had requested the City Manager to institute arrangements for the tracking of remedial actions by management and preparing periodic progress reports on their implementation. The Committee believes that this would enhance the effectiveness of its work by both minimising the need for unnecessary repetition of recommendations and by providing a framework for dialogue with management on issues arising from the implementation process.

Committee is pleased to note that as of 23rd July 2022, the implementation of its recommendations, together with those of other Committees, is now being monitored via a Council Resolutions Register which is compiled and submitted to the Executive Management Committee by the City's Secretariat Department. It is our hope that the implementation of our recommendations to Council will be undertaken through to fruition to enable the municipality to obtain a clean audit.

5. REPORTING ARRANGEMENTS

The Municipal Public Accounts Committee reports directly to Council. In addition to reporting on issues which require the attention of the Council on an adhoc basis, MPAC also reports to Council on a quarterly basis as well as annually at financial year end.

6. MUNICIPAL PUBLIC ACCOUNTS COMMITTEE COMMENTS, FINDINGS AND RECOMMENDATIONS FOR 2022/2023

The Municipal Public Accounts Committee, having deliberated on a number of issues, made recommendations to Council in relation to the following matters:

- Irregular Expenditure
- Consequence Management
- Bad Debt Provision
- Material Water and Electricity Losses
- Financial Management

One of our core functions is to investigate Unauthorised, Irregular, Fruitless and Wasteful expenditure (UIFWe). Based on explanations presented by Units as well as our deliberations, we then resolve to recommend write off or recovery of the expenditure incurred. In our engagements with the respective Units, we noted that some reports contained insufficient information or no reports were provided despite requests for the same. We have emphasised that verbal reporting will not be accepted, and we find it astonishing that some Heads of Units will appear before the Committee without a formal report being submitted. This results in matters being deferred and impacts on the Committee's turnaround time in addressing UIFWe. Such delays place the Municipality at risk of receiving repeat findings from the Auditor-General as well as impacts on the outcomes of investigations conducted by the City Integrity and Investigations Unit (CIU).

In this regard, a significant factor we identified during our interrogation of UIFWe is that investigations can take up to two to three years to be finalised. The consequence of the length of time to finalise investigations often results in recommendations being unimplementable due to the departure of implicated officials. We have ascertained that this can be directly attributed to the lack of staff capacity at CIU and urge the City Manager to ensure the vacant posts are filled with alacrity. This will also assist to expedite consequence management as well as help the Financial Misconduct Disciplinary Board to ensure that disciplinary proceedings are undertaken more effectively.

The high water losses has been a growing concern for us. The proposed Turnaround Strategy which has the backing of National Treasury and Department of Water Affairs has shed light on how the situation in eThekweni may be reversed. We therefore implore the City Manager to take the necessary steps to ensure the implementation of the Turnaround Strategy a reality; albeit this not being an overnight solution.

We continue to monitor the finances of the City and receive regular reports on the financial state of the Municipality. While we make every effort to oversee the public purse, we believe that additional and intensified efforts of Support Committees to keep a handle on matters under their areas off jurisdiction will also assist us to attain a clean audit opinion.

7. CONFERENCES, WORKSHOPS AND TRAINING

The Municipal Public Accounts Committee recognises that training and capacity building interventions assist its members enhance the quality and effectiveness of their performance. It is therefore imperative that members are given the opportunity to receive ongoing training to keep abreast with the requisite skills and knowledge necessary to enhance the Committee's oversight role. The effectiveness and success with which the Committee performs its functions is dependent on its members having the necessary skills and knowledge.

In 2022/2023 financial year, the Committee attended the following conferences/workshops/training:

NO	TRAINING/WORKSHOPS	DATES	VENUE
1	CIGFARO CONFERENCE	11 th to 13 th October 2022	Durban ICC
2	FRAUD AWARENESS	17 th November 2022	Durban ICC Arena
3	AUDITOR GENERAL	23 rd March 2023	City Hall
4	COGTA	13 th to 14 th May 2023	COGTA Mayville

8. REVIEW OF EFFECTIVENESS

The Committee has built a reputation for its insistence on proper governance within the municipality and its aim is to achieve a clean audit outcome from the Auditor General.

To this end, the Committee is concentrating its efforts on ensuring that consequence management is executed throughout the Municipality. We have requested that Deputy City Managers and Heads of Units report on a monthly basis all disciplinary matters instituted and have urged that the backlog of outstanding cases is cleared as soon as possible. We are of the view that the appointment of the Disciplinary Board for Financial Misconduct, also helps the process. Furthermore, once ongoing attention is focussed on consequence management, there will most definitely be a reduction in irregular expenditure incurred throughout the municipality.

Progress is sometimes frustratingly slow, but it is the determination of the Committee that its recommendations to Council are thoroughly researched, Departments properly interrogated and the results targeted towards a City proud of its clean administration. There is still some way to go, but the Committee is convinced it will achieve this aim.

9. RECOMMENDATIONS

COMMITTEE RECOMMENDS:

That the Annual Report of the Municipal Public Accounts Committee detailing the activities of the Committee for the 2022/2023 financial year, be noted.

NOTED.

2. Annexure A

2021/2022 OVERSIGHT REPORT

1. NON-COMPLIANCE WITH LAWS AND REGULATIONS

1.1 Expenditure Management

1.1.1 Irregular Expenditure

The Accounting Officer failed to take reasonable steps to prevent irregular expenditure as required by Section 62 (1)(d) of the MFMA. As a result, irregular expenditure incurred as at 30 June 2022 amounted to R1,49 billion. R625,26 million of this amount was identified during the external audit process, which represents 42% of the total irregular expenditure disclosed.

Despite commitments made by senior and executive leadership to improve the supply chain management (SCM) control environment, there has been a slow response by management in ensuring to institute adequate controls to prevent and detect irregular expenditure. Coupled with this is a slow response by management to effectively deal with employees who have transgressed the relevant SCM policies and processes. This is evident from the repeat findings on irregular expenditure and consequence management that were identified during the current year.

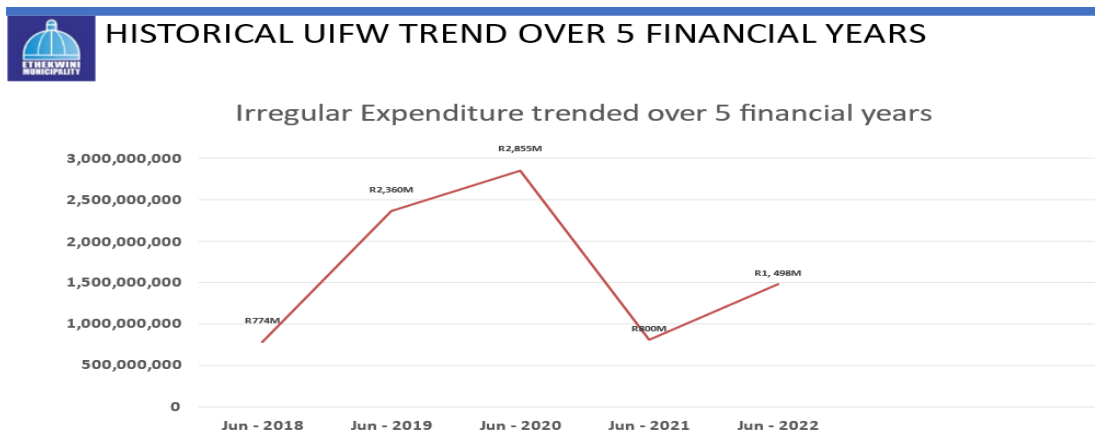
We have called management to account for the regression in this finding. In their submission, management indicated that there were five (5) main causes of this year's irregular expenditure of R1.50 billion. Management further alluded to actions taken to address the root causes of the irregular expenditure.

NO.	CAUSES	REMEDIAL ACTION
1.	R495 million as a result of non-compliance relating to local content. The local content was not declared in the bids submitted by tenderers.	The applicable Act and Regulations for local content have been amended and all tenders advertised from 16 January 2023 no longer have this requirement. Content declaration by bidders has been requested for tenders advertised prior to this. Units are also being requested to consider cancelling bids where local content was not declared to prevent irregular expenditure.
2.	R119 million was as a result on non-compliance with SCM Regulations 36. Deviations were made to normal procurement processes following SCM Regulation 36. However, the Auditor-General deemed these irregular.	Stringent measures for the use of Regulation 36 have been introduced which will ensure that the Regulation is only used where appropriate.
3.	R274 million as a result of non-compliance related to contract extensions. Contracts were extended without following MFMA Section 116(3) processes.	The Municipality is in the process of automating contract management; this will further reduce irregular expenditure incurred for failure to follow proper processes for contract management.

NO.	CAUSES	REMEDIAL ACTION
4.	R249 million as a result of non-compliance related to procurement using contracts secured by another organ of state. The Auditor-General was of the view that the Municipality did not comply with SCM Regulation 32 in that the number one rated bidder was not utilised due to the bidder's lengthy turnaround times.	This was a once off occurrence. There was an oversight by officials in submitting the required evidence which resulted in the expenditure being deemed irregular. The Unit is now aware of the evidence to be kept when utilising Regulation 32.
5.	R317 million arose from City Integrity & Investigation Unit's investigations.	CIU recommendations will be implemented as detailed in the investigation reports.

Whilst we have noted Management's response plan, we are of the view that the municipality should adopt a zero tolerance of irregular expenditure.

The unauthorised, irregular, fruitless and wasteful expenditure that has been incurred over the last five years is reflected below:



PERIOD	UIFWE AMOUNT	AMOUNT WRITTEN OFF/RECOVERED/UNAUTHORISED ADJUSTED IN ADJUSTMENT BUDGET	UIFWE OUTSTANDING
2017/2018	R 774,000,000	(R 50,001,000)	R 1,132,780,000
2018/2019	R 2,360,000,000	(R 627,987,000)	R 2,139,855,000
2019/2020	R 2,855,000,000	(R 555,638,000)	R 5,332,502,000
2020/2021	R 800,000,000	(R 416,066,000) and (R1,778,772) unauthorised adjusted in adjustment budget.	R 3,915,541,000
2021/2022	R 1,498,000,000	(R 556,702,000)	R 4,858,576,000

Therefore,

COMMITTEE RECOMMENDS:

That the City Manager put stringent measures in place to ensure that consequence management is applied in all instances which result in irregular expenditure being incurred by the Municipality; with quarterly reports being submitted to Council to provide progress on the implementation of consequence management.

1.1.2 Expenditure Management Controls

In terms of the MFMA section 65(2)(a) The accounting officer must take all reasonable steps to ensure that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds.

The Auditor-General found the following internal control deficiencies:

- a. Ghost EPWP beneficiaries (individuals were permanently employed at other institutions at the time of being paid through EPWP) were registered in the payroll system. EPWP beneficiaries were paid without proof (daily attendance registers) of work or tasks performed.
- b. There are inadequate systems of expenditure control and procedures are inadequate to detect or prevent payments to Presidential Employment Programme (PEP) beneficiaries who are in the employment of government departments or organisations.

1.1.2.1 Extended Public Works Programme

We noted that two EPWP ghost beneficiaries were registered in the payroll system as EPWP beneficiaries and were paid without doing any work or tasks which is contrary to the requirements of the Conditions of Employment ACT, 1997 for Expanded Public Works Programme and Ethekewini municipality's Expanded Public Works Programme Policy stated above under requirement section.

Furthermore, we noted that there were EPWP beneficiaries that were paid without sufficient supporting documents or proof (daily attendance registers to the workplace) that the work or task was performed which is also not in line with the requirements of the Conditions of Employment ACT, 1997 for Expanded Public Works Programme and Ethekewini municipality's Expanded Public Works Programme Policy stated above under requirement section.

The expenditure incurred for services not rendered is fruitless and wasteful expenditure and results in financial loss to the municipality.

Consequently, the municipality's systems of expenditure control and procedures are inadequate to detect or prevent fraudulent registration and payment of ghost beneficiaries in the payroll system resulting in non-compliance with MFMA section 65(2) (a) stated above.

In our deliberations with management, the internal control deficiencies were acknowledged and there was an undertaking to improve such controls. However, an appropriate action plan to address the deficiencies, including timeframes, was not presented to us nor was the measures that would be undertaken to recover the financial losses incurred by the municipality.

Therefore

COMMITTEE RECOMMENDS:

That the City Manager ensures that a plan to improve the controls over payments to beneficiaries of the Extended Public Works Programme is developed by 30th April 2023 and submitted to the Auditor-General; including measures that will be undertaken to recover the financial losses incurred through payments to ghost beneficiaries.

ADOPTED.

1.1.2.2 Presidential Employment Programme

We note that during the audit, 400 beneficiaries registered on the PEP database were found to be in the employ of the state. Management advises that on receipt of the finding, a process was undertaken to obtain evidence from beneficiaries to confirm that they were not in the employ of the state. Those that failed to provide the requested evidence were subsequently terminated.

Management advises that evidence of non-employment was received from all beneficiaries; with the exception of 31; who were subsequently terminated. 10 of these were later reinstated having signed acknowledgments of debt for the periods when they were in the employ of the state. Steps will be undertaken to effect recoveries from the 21 beneficiaries who were terminated.

Furthermore, we have noted the following improvements to internal controls:

- a. Renewal of contracts bi-annually to prevent ghost employees.
- b. Beneficiaries to submit affidavits confirming that they are not employed by the state.
- c. Introduction of time and attendance certificates for completion by beneficiaries on a monthly basis.
- d. Termination of beneficiaries who are consistently absent from work.
- e. Recovery for any financial loss.

Having noted these improvements

COMMITTEE RECOMMENDS:

That the City Manager ensures that the internal controls for the recruitment and payment of Presidential Employment Programme beneficiaries are improved to prevent unwarranted financial loss.

ADOPTED.

1.3 Consequence Management

The Auditor-General, on reviewing supporting documentation provided by management, noted that there was no consequence management for a selection of cases.

Furthermore, on review of the UIFW note in the AFS as at 30 June 2022, it was noted that irregular expenditure and fruitless and wasteful expenditure had not been disclosed.

In response to the above finding of failure to address recommendations from investigation outcomes and adequately address consequence management, management acknowledged the deficiencies in internal controls resulted in investigation outcomes not being actioned promptly.

We have noted the actions proposed by management to ensure that investigation reports are assigned to the correct bodies for implementation and to monitor the progress of cases; as well as ensuring that disciplinary tribunals are established expeditiously.

Having noted this material non-compliance with great concern as it is a repeat finding

COMMITTEE RECOMMENDS:

That the City Manager monitors consequence management on a monthly basis to prevent delays in the implementation of investigation recommendations and ensures the reports of the Financial Misconduct Disciplinary Board are submitted to the Executive Committee on a monthly basis; with action being taken against any official that fails to implement or delays the implementation of investigation recommendations.

ADOPTED.

1.4 Procurement and Contract Management

We have noted with concern a regression in this area of material non-compliance. The Auditor-General made five (5) findings due to deficiencies in internal controls related to procurement and contract management, as follows:

- a. Some goods and services with a transaction value above R200 000 were procured without inviting competitive bids. (*Repeat finding*)
- b. Some invitations to tender for procurement of commodities designated for local content and production did not stipulate the minimum threshold for local production and content. (*New finding*)
- c. Some commodities designated for local content and production were procured from suppliers who did not submit a declaration on local production and content. (*New finding*)
- d. Persons in the service of the municipality whose close family members had a private or business interest in contracts awarded by the municipality failed to disclose such interest. (*New finding*)
- e. Persons in the service of the municipality who had a private or business interest in contracts awarded by the municipality failed to disclose such interest. (*New finding*)

We have received management's action plan to address the findings. The implementation of the action will be monitored until the findings have been successfully resolved.

Therefore,

COMMITTEE RECOMMENDS:

That the City Manager provides the Municipal Public Accounts Committee with monthly progress reports on the implementation of the action plan to address the procurement and contract management findings by the Auditor-General.

ADOPTED.

1.5 Environmental Management

We have noted that during the audit of compliance with legislation relating to environmental management, details of all Waste Water Treatment Works together with the applicable licenses were requested. On assessing the response, it was established that the two (2) treatment works had no licences and the licence for one treatment works had expired.

Furthermore, we noted the Auditor-General undertook an extensive assessment of the Northern Waste Treatment Works and found it to be in a dire state of disrepair which resulted in the pollution of the Umgeni River and several beaches.

Management was requested to conduct a review of all operational processes in terms of the National Water Act to identify any further areas of non-compliance.

During our deliberations with management, we established that there were measures underway to obtain licences for the three (3) facilities identified by the Auditor-General and to effect repairs to the non-operational waste water treatment works. However, there were no clear timeframes when this would be achieved.

As we concur with the Auditor-General that it is imperative to ensure that all water and sanitation operations are conducted within the confines of the law,

COMMITTEE RECOMMENDS:

- 1.5.1 That the City Manager, in consultation with the Head: Legal & Compliance, ensures that an assessment of compliance with the National Water Act is undertaken and that a plan, with timeframes, to address any areas of non-compliance is developed and implemented; including a repair and maintenance plan for all existing sewerage infrastructure.
- 1.5.2 That the City Manager submits quarterly progress updates to the Municipal Public Accounts Committee on the implementation of the action plan.

ADOPTED.

1.6 Material Irregularities

We have been advised that during the 2021/22 audit, the Auditor-General issued various communication about findings relating to potential financial loss. Pursuant to this communication, several material irregularity notifications were issued by the Auditor-General.

A material irregularity is any non-compliance with or contravention of legislation, fraud, theft or a breach of fiduciary duty identified during an audit that has resulted in or is likely to result in a material financial loss, the misuse or loss of material public resource or substantial harm to a public sector institution or the general public.

In the 2021/22 audit, the Auditor-General found two material irregularities which were brought to management's attention. Thereafter, follow-up notifications requesting updates on progress made to address the irregularities were issued. Management provided the requested updates to the Auditor-General on 13th March 2023. We will then follow-up on these issues to ensure that they are successfully resolved.

During the prior year's audit, the Auditor-General found four material irregularities which were brought to management's attention. One matter has been successfully resolved. The other three matters were referred to the Disciplinary Board on Financial Misconduct which resolved that disciplinary action be taken against implicated officials for two of the matters. The said disciplinary action is currently underway. The Board's decision is pending for the third matter. Notwithstanding the foregoing, the Auditor-General is of the view that the remedial action taken by management does not effectively address the material irregularities. Management is consequently determining further actions required to address the irregularities.

Having noted progress made

COMMITTEE RECOMMENDS:

That Council notes that the Municipal Public Accounts Committee will follow-up on the outstanding material irregularities to ensure that they are all resolved appropriately; with Council being accordingly advised of such resolution.

ADOPTED.

2. ANNUAL PERFORMANCE REPORT

2.1 Material Findings on Various Indicators

The Auditor-General was unable to obtain sufficient appropriate audit evidence for the reported achievements of three of the 67 indicators relating to this objective. This was due mainly to the lack of accurate and complete records. The Auditor-General was unable to confirm the reported achievements by alternative means. Consequently, the Auditor-General was unable to determine whether any adjustments were required to the reported achievements in the annual performance report for the indicators listed below:

Indicator No.	Indicator Description	Reported Achievement
3A.7	WS3.11 - percentage of callouts responded to within 24 hours (sanitation/wastewater)	42,30%
3A.8	WS3.21 - percentage of callouts responded to within 24 hours (water)	59,00%
3A.26	EE3.11 - percentage of unplanned outages that are restored to supply within industry standard time frames	70,08%

In our deliberations with management, we have been advised the availability of evidence to support the date and time of callouts (Indicators 3A.7 and 3A.8), the current system (Faultman) has limitations and is not 100% reliable. The Water & Sanitation Unit has therefore initiated a process to replace this with an operational system that will have better and more improved capabilities. The process is currently with the city's Capital Investment Committee (CIC). Once approved by the CIC the process will proceed to procurement stage.

Regarding Indicator 3A.26, a change request has been initiated for the archive readings to be available on the front-end call centre application. This requires changes and scripting to the Oracle database and should be completed by 31 March 2023. Management, in our engagement, assured that it will meet the deadline of 31 March 2023.

Material finding on Indicator 3A.24 - EE1.13 – percentage of valid customer applications for new electricity connections processed in terms of municipal service standards

The Auditor-General reported that the achievement of 46% was reported against a target of 50% in the annual performance report. However, some supporting evidence provided differed materially from the reported achievement, while in other instances the Auditor-General was unable to obtain sufficient appropriate audit evidence. This was due to the lack of accurate and complete records. The Auditor-General was unable to further confirm the

reported achievement by alternative means. Consequently, the Auditor-General was unable to determine whether any further adjustments were required to the reported achievement.

In our engagement with management, we were advised that the root cause of the finding was reporting errors by Ellipse which resulted in some applications which had been processed on time being excluded in the final count. Furthermore, the backlog of old customer applications caused delays in processing new applications.

We are advised that the errors in the reports have been resolved. In addition, the Unit is tracking productivity and timeous processing of applications in order to meet its performance target. Old applications, where customers have failed to make the required payments, will be removed from the system; with customers being required to re-apply once they are ready to effect payment.

As the mitigation measures are still to be fully implemented

COMMITTEE RECOMMENDS:

That the City Manager provides the Municipal Public Accounts Committee with monthly progress reports on the implementation of the action plan to address the findings by the Auditor-General regarding the unavailability of audit evidence to support the reported performance achievements. The City Manager to further ensure that evidence requested by the Auditor-General is submitted timeously.

ADOPTED.

2.2 Achievement of Planned Targets

The Auditor-General reported that the eThekweni Municipality achieved 46% of the planned targets for the year in the selected objective - create a quality living environment. Some of the planned targets that were not achieved relate to key service delivery indicators on water, sanitation and electricity, as listed in the table below:

Indicator No.	Indicator	Planned Target	Reported Achievement
3A.5.	The % of non-revenue water loss	Less than 52% non-revenue water loss by 30 June 2022	56,20%
3A.6	The percentage of households with access to at least a basic level of water	82,92% of households with access to at least a basic level of water by 30 June 2022	80,90%
3A.15.	The percentage of estimated indigent households with access to a free basic service: water	76,17% of estimated indigent households with access to a free basic service: water for the 2021-22 financial year	68,60%
3A.14.	The percentage of households with access to at least a basic level of sanitation	73,51% of households with access to at least a basic level of sanitation by 30 June 2022	72,38%
3A.16.	The percentage of estimated indigent households provided with free basic services: sanitation	57,77% of estimated indigent households provided with free basic services: sanitation by 30 June 2022	52,99%

Indicator No.	Indicator	Planned Target	Reported Achievement
3A.21.	The percentage of households with access to a basic level of electricity within the eThekweni municipal area	68,57% households with access to a basic level of electricity by 30 June 2022	65,63%
3A.22.	Electricity losses (technical and non-technical) as a % of electricity purchases	≤8,5% electricity lost as a percentage of electricity purchased for the 2021-22 financial year	11,28%

Management has proposed various interventions to address the audit findings. It is not evident whether these measures are sufficient to deal with the findings appropriately.

As such

COMMITTEE RECOMMENDS:

That the City Manager provides the Municipal Public Accounts Committee with quarterly progress reports on the implementation of the action plan to address the findings by the Auditor-General regarding the non-achievement of performance targets.

ADOPTED.

3. OVERSIGHT AND ACCOUNTABILITY

The mandates of the Section 80 committees are provided for in the Terms of Reference which were duly approved by Council. Committees offer a setting which facilitates detailed scrutiny of legislation and the level of compliance thereof, oversight of municipal activities and interaction with the public and external stakeholders.

The work of committees should include oversight visits that entail site inspections, conversing with people, assessing the impact of delivery and developing reports for adoption by the committees; which contain recommendations for consideration by the Executive Committee and Council.

In exercising oversight, committees should obtain first-hand knowledge from officials engaged in the direct implementation of specific programmes and/or who are directly responsible for service delivery. In order to evaluate the work of the municipality from a broader perspective, committees should invite advisory persons or experts from outside the municipality to provide background knowledge and analysis of relevant issues.

We are of the view that the Section 80 Committees have not yet managed to exercise their oversight responsibilities effectively; including holding management accountable. This puts undue strain on the Municipal Public Accounts Committee. Furthermore, MPAC does not have the capacity to undertake the entire oversight responsibility on its own.

As it is our view that improving oversight and accountability by all structures of Council will improve service delivery and address the governance challenges in the Municipality

COMMITTEE RECOMMENDS:

- 3.1 That SALGA/COGTA/National Treasury be requested to provide training to Members of Section 80 Committees to enable them to effectively oversee and ensure accountability by their respective Clusters and Units.

- 3.2 That Section 80 Committees develop detailed work programmes that will assist them to undertake their oversight responsibilities effectively; with such programmes being submitted to the Executive Committee for approval and to measure the performance of the Committees.

ADOPTED.

4. REPRESENTATION OF THE CITY MANAGER AT MEETINGS OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

It will be appreciated that it is prudent for all oversight structures of Council to work in unison in order to address the insurmountable challenges plaguing the Municipality. The City Manager needs to be privy to the issues that MPAC deliberates on and help unblock challenges that it faces particularly those that relate to the Administration; as he is the Accounting Officer.

However, from the inception of this Council term the City Manager has only attended one or two meetings at most. When we raised our concerns about his non-attendance of MPAC meetings, he undertook to ensure that he is represented at all meetings.

Notwithstanding this undertaking, many meetings of MPAC have been held without the City Manager being represented.

It is our view that the consistent absence of the City Manager impacts the functionality of MPAC. We are further concerned that if the City Manager is unable to prioritise MPAC meetings, it will be impossible for him to take action against Officials that also fail to provide MPAC with the necessary reports to undertake its legislative responsibilities.

As we are extremely concerned about the consistent absence of the City Manager at MPAC meetings

COMMITTEE RECOMMENDS:

That Council directs the Mayor to ensure that the City Manager attends meetings of the Municipal Public Accounts Committee; with him ensuring that he is represented, in the exceptional cases, when he is unable to attend meetings.

ADOPTED.

2. UNAUTHORISED, IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE (UIFWE): MULTIPLE FINANCIAL YEARS 2017/2018 TO DATE 2022/2023
(as contained in the Council Supplementary Agenda (2023-08-15))

REPORT FROM THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

TO: COUNCIL

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
 - d) Whether or not the Unit Head has confirmed that goods or services were delivered as per contract specifications and initial contract rates
 - e) Whether corrective action needed to be undertaken
 - f) 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 **R290,598,268.73** (Two hundred ninety million five hundred ninety eight thousand two hundred sixty-eight rands and seventy-three cents) was identified by the following sources namely:

Source	Annexure	Amount
Internal Control	A	R237,411,378.57
City Integrity & Investigations Unit	B	R53,186,890.16
TOTAL		R290,598,268.73

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.

In addition, the Committee received presentations on investigations of UIFW expenditure by the City Integrity and Investigations Unit (CIU) in prior years. We have delved into these investigations to ascertain the root causes of the UIFW expenditure and to establish the reasons for delays in implementing CIU's recommendations.

Many of the matters that we dealt with date back to 2015-2019, therefore it is unlikely that any disciplinary action that is initiated now will be successful as Section 7.4 of the Disciplinary Collective Agreement states that a disciplinary hearing should commence as soon as possible but no later than three months from the date when a decision is taken to institute disciplinary proceedings. Furthermore, recovery also has a deadline as debt prescribes after three years. It will therefore be impossible to institute recoveries in matters that are three years and older.

Whilst we believe that officials should be held responsible for incurring UIFW expenditure and believe that the necessary disciplinary proceedings should be instituted in this regard, it is unfortunately not our responsibility to undertake such actions. It is the sole responsibility of the Accounting Officer and his management; with the Financial Misconduct Disciplinary Board playing a role in instances of financial misconduct. However, as part of our oversight duties we receive quarterly reports from the Financial Misconduct Disciplinary Board and the team, that is led by the

Deputy City Manager: Corporate and Human Capital, to monitor the implementation of consequence management in the municipality.

Having duly considered and deliberated on the expenditure,

COMMITTEE RECOMMENDS:

- 2.1 That in compliance with Section 32(2) of the Municipal Finance Management Act (MFMA), irregular, fruitless and wasteful expenditure totaling **R290,598,268.73** (Two hundred ninety million five hundred ninety eight thousand two hundred sixty-eight rands and seventy-three cents) as detailed in 'Annexure A' and 'Annexure B' of this report be certified as irrecoverable and written-off by Council based on the outcomes of the investigations of such expenditure.
- 2.2 That it be noted that any consequence management recommendations will be implemented in accordance with the relevant legislation, Council Policy and Procedures; including oversight by the Financial Misconduct Disciplinary Board.
- 2.3 That the City Manager ensures that consequence management processes are expedited to ensure that errant officials and service providers are held responsible for UIFW expenditure incurred, as any delays in this regard can result in debt prescribing and disciplinary processes not having prospects of success.

ADOPTED.

(At this stage of the proceedings Councillor ON Mthembu-Zondi, in her capacity as the Chairperson of the Ethics Committee, presented the report of the Committee).

REPORT ON THE OUTCOME OF HEARINGS CONDUCTED WITH RESPECT TO THE BREACH OF THE CODE OF CONDUCT BY CERTAIN COUNCILLORS DUE TO FAILURE TO CONVENE COMMUNITY ENGAGEMENTS DURING QUARTER ONE OF THE 2022/2023 FINANCIAL YEAR (JULY – SEPTEMBER 2022) (3/4/6)

1. INTRODUCTION

- 1.1 The Preamble of the Code of Conduct stipulates that: "*Councillors are elected to represent Local Communities on Municipal Councils, to ensure that Municipalities have structured mechanisms of accountability to Local Communities and to meet the priority needs of Communities by providing services equitably, effectively and sustainably within the means of the Municipality.*

In fulfilling this role, Councillors must be accountable to local Communities and report back at least quarterly to constituencies on Council matters, including the performance of the Municipality in terms of established indicators." As part of fulfilling their obligations to the

Community, Councillors are required to support the achievement by the Municipality of its objectives, must adhere to the Code of Conduct for Councillors, to comply with the Rules of Order, the By-Laws of the Municipality and at all times, to respect the Rule of Law.

2. BACKGROUND

- 2.1 On 2022-10-18, the Ethics Committee received a Report from the Speaker dated 8 October 2022 which highlighted the number of Councillors that had Community engagements and provided a report back on quarterly Community engagements held.
- 2.2 The Ethics Committee considered the report and resolved that the following Councillors be called in for enquiry on the alleged breach. Hearings in respect of the alleged breach were arranged pertaining to Councillors F Majola, M Mbambo, D Nsundwane, TJ Mkhize, TJ Mnguni, J Maphumulo, Z Solomon, A Rampersad, S Cele, S Mthethwa, D Nowbuth, MM Ngiba, T Xulu, A Beetge, J Mchunu, RD Macpherson, S Mthethwa and M Johnson.
- 2.3 Considering the number of Councillors that had to be called in for hearing, the Committee further resolved that the said hearings be scheduled over five (05) days as follows, 2023-04-18, 2023-04-20, 2023-04-21, 2023-05-03 and 2023-05-23.
- 2.4 Council to note that the Ethics Committee applied the principles of natural justice whilst undertaking the above-mentioned inquiry sessions, and that it advised respective Councillors of their rights to appeal sanctions issued in relation to breaches, in line with the Section 16(4)(a) of Schedule 7, Code of Conduct for Councillors.

3. HEARINGS

Hearings were held in respect of the following Councillors, namely:

3.1 COUNCILLOR FREEDOM NKOSINATHI MAJOLA

3.1.1 Breach One

It is alleged that Councillor FN Majola failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 06) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.1.2 Breach Two

It is alleged that Councillor FN Majola failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.1.3 Plea on the breach by Councillor FN Majola

- (i) In plea to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 06) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Majola pleaded **GUILTY**.
- (ii) In plea to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Majola pleaded **NOT GUILTY**.

The Committee considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Majola was indeed guilty of the two breaches raised against him pertaining to Quarter one (July – September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council approves that Councillor Majola be issued a **formal written warning** in respect of **Breach One**, pertaining to failure to hold and report on one Community engagement held over Quarter One (July - September 2022) and **Breach Two**, for not making representations to the Ethics Committee when required to do so by close of business on 01 November 2022, thereby contravening Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).

3.2 COUNCILLOR MARCO MBAMBO

3.2.1 Breach One

It is alleged that Councillor M Mbambo failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 08) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.2.2 Breach Two

It is alleged that Councillor M Mbambo failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.2.3 Plea on the breach by Councillor M Mbambo

- (i) In plea to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 08) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Mbambo pleaded **GUILTY**.

- (ii) In plea to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Mbambo pleaded **GUILTY**.

The Committee considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Mbambo was indeed guilty of the two breaches raised against him pertaining to Quarter one (July – September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council approves that Councillor Mbambo be issued a **formal written warning** in respect of **Breach One**, pertaining to failure to hold and report on one Community engagement held over Quarter One (July - September 2022) and **Breach Two**, for not making representations to the Ethics Committee when required to do so by close of business on 01 November 2022, thereby contravening Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).

3.3 COUNCILLOR DUMISANI MAXWELL NSUNDWANE

3.3.1 Breach One

It is alleged that Councillor DM Nsundwane failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 12) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.3.2 Breach Two

It is alleged that Councillor DM Nsundwane failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.3.3 Plea on the breach by Councillor DM Nsundwane

- (i) In plea to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 12) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Nsundwane pleaded **GUILTY**.
- (ii) In plea to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby

contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Nsundwane pleaded **GUILTY**.

The Committee considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Nsundwane was indeed guilty of the two breaches raised against him pertaining to Quarter one (July - September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council approves that Councillor Nsundwane be issued a **formal written warning** in respect of **Breach One**, pertaining to failure to hold and report on one Community engagement held over Quarter One (July - September 2022) and **Breach Two**, for not making representations to the Ethics Committee when required to do so by close of business on 01 November 2022, thereby contravening Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).

3.4 COUNCILLOR THEMBA JETHRO MKHIZE

3.4.1 Breach One

It is alleged that Councillor TJ Mkhize failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 25) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.4.2 Breach Two

It is alleged that Councillor TJ Mkhize failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.4.3 Plea on the breach by Councillor TJ Mkhize

- (i) In plea to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 25) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Mkhize pleaded **GUILTY**.
- (ii) In plea to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Mkhize pleaded **NOT GUILTY**.

The Committee considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Mkhize was indeed guilty of the two breaches raised against him pertaining to Quarter one (July – September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council approves that Councillor Mkhize be issued a **formal written warning** in respect of **Breach One**, pertaining to failure to hold and report on one Community engagement held over Quarter One (July - September 2022) and **Breach Two**, for not making representations to the Ethics Committee when required to do so by close of business on 01 November 2022, thereby contravening Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).

3.5 COUNCILLOR JABULANI BHEKISISA MAPHUMULO

3.5.1 Breach One

It is alleged that Councillor JB Maphumulo failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 76) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.5.2 Breach Two

It is alleged that Councillor JB Maphumulo failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.5.3 Plea on the breach by Councillor JB Maphumulo

- (i) In plea to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 76) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Maphumulo pleaded **GUILTY**. *(It being noted that the original recording erroneously reflected "NOT GUILTY" but this has since been corrected as per the submission made by Councillor Mdletshe)*
- (ii) In plea to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Maphumulo pleaded **GUILTY**.

The Committee considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Maphumulo was indeed guilty of the two breaches raised against him pertaining to Quarter one (July – September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council approves that Councillor Maphumulo be issued an **informal verbal warning** in respect of **Breach One**, pertaining to failure to hold and report on one Community engagement held over Quarter One (July - September 2022) and **Breach Two**, for not making representations to the Ethics Committee when required to do so by close of business on 01 November 2022, thereby contravening Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).

3.6 COUNCILLOR ZOE ADELE SOLOMON

3.6.1 Breach One

It is alleged that Councillor ZA Solomon failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to her local Community (Ward 66) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.6.2 Breach Two

It is alleged that Councillor ZA Solomon failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.6.3 Plea on the breach by Councillor ZA Solomon

- (i) In plea to the allegations contained in breach one of the Charge Sheet that she failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to her local Community (Ward 66) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Solomon was found to be **GUILTY**.
- (ii) In plea to the allegations contained in breach two of the Charge Sheet that she failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Solomon was found to be **GUILTY**.

Council to note that Councillor Solomon didn't honor the Ethics Committee's invite to the hearing and didn't make submission on reasons for the inability to attend the said hearing. The Committee resolved to proceed with the hearing as scheduled in her absence. It

considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Solomon was indeed guilty of the two breaches raised against her pertaining to Quarter one (July – September 2022).

On that basis,

COMMITTEE RECOMMENDS:

- (i) That the Municipal Council approves that Councillor Solomon be fined **R2 500,00 (Two Thousand Five Hundred Rand)** in respect of **Breach One**, for failure to hold and report on one Community engagement over Quarter One (July - September 2022), in breach of Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).
- (ii) That in respect of Breach Two, Council suspends, subject to the behaviour of the Councillor; a further fine of R2 500,00 (Two Thousand Five Hundred Rand) for not making representations to the Ethics Committee when required to do so by close of business on 1 November 2022, thereby contravening Section 2(b) of Schedule 7: Code of Conduct for Councillors, of the Local Government: Municipal Structures Act 3 of 2021 (as amended).

3.7 COUNCILLOR ANOOP RAMPERSAD

3.7.1 Breach One

It is alleged that Councillor A Rampersad failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 77) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.7.2 Breach Two

It is alleged that Councillor A Rampersad failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.7.3 Plea on the breach by Councillor A Rampersad

- (i) In plea to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 66) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Rampersad was found to be **GUILTY**.
- (ii) In plea to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Rampersad was found to be **GUILTY**.

Council to note that Councillor Rampersad didn't honor the Ethics Committee's invite to the hearing and didn't make submission on reasons for the inability to attend the said hearing. The Committee resolved to proceed with the hearing as scheduled in his absence. It considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Rampersad was indeed guilty of the two breaches raised against her pertaining to Quarter one (July – September 2022).

On that basis,

COMMITTEE RECOMMENDS:

- (i) That Municipal Council approves that Councillor Rampersad be fined **R2 500,00 (Two Thousand Five Hundred Rand)** in respect of **Breach One**, for failure to hold and report on one Community engagement over Quarter One (July - September 2022), in breach of Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).
- (ii) That in respect of Breach Two, Council suspends, subject to the behaviour of the Councillor; a further fine of R2 500,00 (Two Thousand Five Hundred Rand) for not making representations to the Ethics Committee when required to do so by close of business on 1 November 2022, thereby contravening Section 2(b) of Schedule 7: Code of Conduct for Councillors, of the Local Government: Municipal Structures Act 3 of 2021 (as amended).

3.8 COUNCILLOR SIBUSISO BLESSING CELE

3.8.1 Breach One

It is alleged that Councillor SB Cele failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 82) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.8.2 Breach Two

It is alleged that Councillor SB Cele failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.8.3 Plea on the breach by Councillor SB Cele

- (i) In plea to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 82) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Cele pleaded **GUILTY**.

- (ii) In plea to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Cele pleaded **GUILTY**.

The Committee considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Cele was indeed guilty of the two breaches raised against him pertaining to Quarter one (July – September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council approves that Councillor Cele be issued a **verbal warning** in respect of **Breach One**, pertaining to failure to hold and report on one Community engagement held over Quarter One (July - September 2022) and **Breach Two**, for not making representations to the Ethics Committee when required to do so by close of business on 01 November 2022, thereby contravening Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).

3.9 COUNCILLOR DHARMANAND RUGBEER NOWBUTH

3.9.1 Breach One

It is alleged that Councillor DR Nowbuth failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 90) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.9.2 Breach Two

It is alleged that Councillor DR Nowbuth failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.9.3 Plea on the breach by Councillor DR Nowbuth

- (i) In plea to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 66) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Nowbuth was found to be **GUILTY**.
- (ii) In plea to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee

dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Nowbuth was found to be **GUILTY**.

Council to note that Councillor Nowbuth didn't honor the Ethics Committee's invite to the hearing and didn't make submission on reasons for the inability to attend the said hearing. The Committee resolved to proceed with the hearing as scheduled in his absence. It considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Nowbuth was indeed guilty of the two breaches raised against her pertaining to Quarter one (July – September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

- (i) That the Municipal Council approves that Councillor Nowbuth be fined **R2 500,00 (Two Thousand Five Hundred Rand)** in respect of **Breach One**, for failure to hold and report on one Community engagement over Quarter One (July - September 2022), in breach of Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).
- (ii) That in respect of Breach Two, Council suspends, subject to the behaviour of the Councillor; a further fine of R2 500,00 (Two Thousand Five Hundred Rand) for not making representations to the Ethics Committee when required to do so by close of business on 1 November 2022, thereby contravening Section 2(b) of Schedule 7: Code of Conduct for Councillors, of the Local Government: Municipal Structures Act 3 of 2021 (as amended).

3.10 COUNCILLOR THOKOZANI VIVIAN XULU

3.10.1 Breach One

It is alleged that Councillor TV Xulu failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 95) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.10.2 Breach Two

It is alleged that Councillor TV Xulu failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.10.3 Plea on the breach by Councillor TV Xulu

- (i) In plea to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 95) on Council matters as required in terms

of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Xulu pleaded **NOT GUILTY**.

- (ii) In plea to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Xulu pleaded **NOT GUILTY**.

The Committee considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Xulu was indeed guilty of the two breaches raised against him pertaining to Quarter one (July – September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council approves that Councillor Xulu be issued a **formal written warning** in respect of **Breach One**, pertaining to failure to hold and report on one Community engagement held over Quarter One (July - September 2022) and **Breach Two**, for not making representations to the Ethics Committee when required to do so by close of business on 01 November 2022, thereby contravening Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).

3.11 COUNCILLOR JEFFREY LINDA MCHUNU

3.11.1 Breach One

It is alleged that Councillor JL Mchunu failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 103) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.11.2 Breach Two

It is alleged that Councillor JL Mchunu failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.11.3 Plea on the breach by Councillor JL Mchunu

- (i) In plea to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 103) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Mchunu pleaded **GUILTY**.

- (ii) In plea to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021(as amended), Councillor Mchunu pleaded **GUILTY**.

The Committee considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Mchunu was indeed guilty of the two breaches raised against him pertaining to Quarter one (July – September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

- (i) That the Municipal Council approves that Councillor Mchunu be issued **an informal warning** in respect of **Breach One**, pertaining to failure to hold and report on one Community engagement held over Quarter One (July - September 2022) and **Breach Two**, for not making representations to the Ethics Committee when required to do so by close of business on 01 November 2022, thereby contravening Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).

3.12 COUNCILLOR MANAGI JOHNSON

3.12.1 Breach One

It is alleged that Councillor M Johnson failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to her local Community (Ward 51) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.12.2 Breach Two

It is alleged that Councillor M Johnson failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022 of which was duly served on the same date, which was in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended).

3.12.3 Plea on the breach by Councillor M Johnson

- (i) In plea to the allegations contained in breach one of the Charge Sheet that she failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to her local Community (Ward 51) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Johnson pleaded **NOT GUILTY**.
- (ii) In plea to the allegations contained in breach two of the Charge Sheet that she failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby

contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Johnson pleaded **NOT GUILTY**.

The Committee considered factors and evidence presented before it through the Evidence Leader and noted that Councillor Johnson was indeed guilty of the two breaches raised against him pertaining to Quarter one (July – September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council approves that Councillor Johnson be issued **an informal warning** in respect of **Breach One**, pertaining to failure to hold and report on one Community engagement held over Quarter One (July - September 2022) and **Breach Two**, for not making representations to the Ethics Committee when required to do so by close of business on 01 November 2022, thereby contravening Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).

<p>4. OUTSTANDING HEARINGS: ALLEGED BREACH IN RESPECT OF COUNCILLORS NOT HOLDING AND REPORTING AT LEAST ONE COMMUNITY MEETING FOR QUARTER ONE, JULY 2022 TO SEPTEMBER 2022 (3/4/6)</p>

- 4.1 Council to note that the Ethics Committee has a total of five (5) outstanding cases yet to be concluded in respect of Quarter One. In noting the reasons which necessitated in the postponement of hearings, the Committee was unable to conclude on its hearings. However, upon conclusion of its outstanding cases, further reporting will be made to Council.

COMMITTEE RECOMMENDS:

- 4.1.1 That Council notes the five (05) outstanding Councillor enquiries of the Ethics Committee relative to the alleged breach in respect of Councillors not holding and reporting at least one Community meeting over Quarter One (July - September 2022) in terms of Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended), and the Councillors concerned are recorded as follows:
- 4.1.1.1 Councillor A Beetge
 - 4.1.1.2 Councillor S Mthethwa
 - 4.1.1.3 Councillor MM Ngiba
 - 4.1.1.4 Councillor RD Macpherson
 - 4.1.1.5 Councillor TJ Mnguni
- 4.1.2 That Council notes that upon finalization of the hearings referred to in .1 above, a report with findings and recommendations will be submitted accordingly to the Municipal Council for consideration.
- 4.1.3 That Council notes that all Councillors contained in this report of the Ethics Committee have a right to appeal in writing to the MEC for Cooperative Governance and Traditional Affairs, within 14 days of having been notified of the decision of the Council and citing reasons on which the appeal is based.

Prior to the Chairperson of the Ethics Committee, Councillor ON Mthembu-Zondi, officially tabling the Ethics Committee Report, the DA requested five (05) minutes to hold Caucus, the time being 19h09. The Speaker acceded to the request. Thereafter, the meeting adjourned accordingly, and subsequently resumed at 19h37.

Reporting back from Caucus, the DA cited its position on the matter in terms of the entire process being regarded as flawed and inconsistent in certain aspects. Mention being made that it was considered improper for Councillors implicated to be charged based on the preamble of the Code of Conduct for Councillors.

For the debate to ensue in a proper manner, the Chairperson officially presented the Report seriatim, and advising of the plea by each Councillor which appeared before the Ethics Committee, as well as the sanctions imposed thereafter. It being recorded that for the Councillors who failed to make themselves available for the hearings scheduled, the Ethics Committee has agreed to impose a fine of R2 500.00 (Two Thousand Five Hundred Rand) for failure to appear before the Ethics Committee, and same amount for the offence committed.

As the matter was to be debated fully, the DA enquired whether a Report of this nature should it not be treated as a confidential item and be dealt with In-Committee. Upon a legal opinion having been sought in this regard, the Head: Legal and Compliance advised that it was the Council's prerogative to decide how Council matters should be dealt with, depending on the significance and the implications associated therewith. He pointed out though that this was not a matter requiring a legal opinion, but that Council decides how to deal with matters.

With the DA having formally submitted a request for this matter to be dealt with In-committee, concurrent views were submitted by some of the Councillors, that this would be setting a different precedent since over the years the Ethics Committee Report had been dealt with openly. Mention being made that Councillors are accountable to the public and not governed by the Labour Relations Act.

Following the views submitted, the Speaker ruled that the status quo should remain in the manner in which to deal with the Ethics Committee Report. He then opened a platform advising that Councillors were at liberty to submit to his office a preferred manner in which to deal with the Ethics Committee Report in future.

The Speaker then requested the Councillors implicated to be recused from the meeting, as part of complying with the Disclosure of Interest requirement. Upon request, the Head: Legal & Compliance then drew the Council to Clause 6 of the Code of Conduct which reads as follows, and to clarify further the Disclosure of Interest:

**Schedule 7, Code of Conduct for Councillors, Clause 6, "Disclosure of interests (1)
A councillor must: -**

(a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and

(b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee unless the Council or Committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant."

He further advised that the Ethics Committee members were also precluded from deliberating on the report, in terms of the approved Systems of Delegations and the Terms of Reference, also quoting Clause 4.3.3.5 which refers to the requirement

for the outcomes and the resolutions of the Committee to be reported to the Municipal Council and not to be debated by the same Members of the Committee submitting the Report once matters have been concluded at the Committee level. In this view, the Members of the Committee were somehow precluded from debating the very same matter(s) concluded at the Committee level.

Substantiating a requirement to honour collective decision and reporting thereof, the Head: Legal & Compliance made reference to the Supreme Court of Appeal pronouncement during the matter between the DA and the eThekweni Municipality relative to the street naming matters.

It was advised that the DA was defeated in a voting process during the Council proceedings. That when appealing the Council decision in the Court of Law, the decision was overruled by the Court, on the basis that Council members, as a collective, were bound by the decision of the Council.

With explanation having been given on how the matter will unfold in this Council meeting, the IFP proposed a deferral of this matter to the next Council meeting due to time constraints as the meeting prolonged to late hours in the evening, meanwhile, the DA claiming that they did not have prior sight of the Report to be considered. However, this proposal was not supported by the majority of the Council Members.

Engaging on the matter, the DA reiterated that Councillors implicated were being charged based on the preamble of the Code of Conduct. That the sanctions imposed were considered not commensurate with the offence cited, reference being also made on being fined twice, first for not convening community meetings, and secondly, for failure to appear before the Ethics Committee to present the case. With regard to the latter, the DA submitted that some Councillors did not receive Notice of Hearings, which claim was subsequently nullified by the submission that multiple communication modes are used when sending Notices to address the very same issue of claiming non-receipt thereof.

Proceeding with the discussion, the DA enquired the rationale behind the Councillors who are yet to appear before the Ethics Committee being also requested to recuse themselves from the meeting, while there is no specific outcome relating to their cases in the meantime. To conclude the debate, the DA submitted that with the procedure having been followed to handle the matter being considered unjustified, the outcome thereof would be subjected to an appeal.

Subsequently, the majority of members submitted that all Councillors are expected to abide by the Code of Conduct, and to also respect the Ethics Committee which is tasked to investigate and make findings on any alleged breach of the Code, with appropriate recommendations to be then submitted for consideration by the Municipal Council. The attention was drawn to the fact that in the event Councillors implicated are not satisfied with the decision of the Council, they are, as per the statutory requirement, permitted to appeal the decision with the MEC for Cooperative Governance and Traditional Affairs.

The work undertaken by the Ethics Committee thus far was applauded by the majority of Council Members. It being reiterated that it was incumbent upon all Councillors to respect the Ethics Committee, mention being made that, in certain instances it appears there are some Councillors who did not display remorse, hence, a decision not to honour the invitation by the Ethics Committee.

At this stage of the proceedings and given the undertaking by the Office of the Speaker to support Councillors to convene community meetings, the IFP Councillor Gwala drew attention to the fact that he was not supported by the aforesaid Office when he previously requested support to convene the community meeting. The Speaker then advised that this matter can be dealt with separately in a different platform since the focus for now was deliberating on the cases and the outcome of the hearings conducted by the Ethics Committee in this regard.

The Ethics Committee having been commended on the sterling work done, a proposal was made to suspend the second fine imposed in the amount of R2 500.00, subject to the behaviour of the individual Councillor.

The proposal made implied that Councillors to qualify for being considered to invoke suspension will only pay one fine instead of the two reflected in the Ethics Committee Report under consideration.

Accordingly, a formal MOTION TO AMEND was submitted as follows: -

In terms of Rule 20(4) of the Rules of Order By-Law 2014, as amended, Councillor BT Ntuli, seconded by Councillor NI Madlala, both from the ANC, moved as a procedural motion to amend recommendations 3.6 (ii); 3.7 (ii); and 3.9 (ii) contained in the Ethics Committee Report under consideration, as follows:

“That in respect of Breach Two, the Council, subject to the behaviour of the Councillor, suspends a further fine of R2 500,00 (Two Thousand Five Hundred Rand) for not making representations to the Ethics Committee as having been required to do so by this Committee by the close of business on 01 November 2022, thereby contravening Section 2(b) of Schedule 7: Code of Conduct for Councillors, of the Local Government: Municipal Structures Act 3 of 2021 (as amended).”

CARRIED

As some members were not in support of the proposed amendments, the matter was put to the vote. With 184 Councillors present; 135 Councillors (ANC – 84, EFF – 20; IFP – 14; ABC – 02; ACC – 01; ACDP – 01 ADEC – 00; AIC – 01; DLC – 00; APF-01; ATM – 01, ALJAMAH – 01, JEP -01; KZNI – 01; MF – 01; MOSA – 01; NFP -01; PFP – 01; PRM – 01, TA – 01 and UIM - 01) were in support of the amendment, and 46 Councillors (DA – 45 and VF Plus- 01) voted against the amendment. The 03 - Action SA Councillors abstained on the matter.

The above Motion to Amend the recommendations of the Ethics Committee was, by the majority vote, **CARRIED**.

Reverting to the substantive matter, some of the Councillors were not in support of the recommendations of the Ethics Committee. Therefore, the matter was put to the vote.

With 169 Councillors present, 125 Councillors (ANC - 75, EFF – 20; IFP – 13, Action SA - 03; ABC – 02; ACC - 01, ACDP – 01, AIC -01, DLC – 00; ADEC – 00; APF – 01; ATM -01; ALJAMAH – 01; JEP -01; KZNI - 01, NFP -01; PFP – 01, PRM – 01 and TA- 01). voted in favour of the recommendations, and 43 Councillors DA-40, MOSA – 01; UIM – 01 and VF Plus – 01) voted against the matter. One (01) MF Councillor abstained on the matter.

In this regard, the recommendations of the Ethics Committee, as amended were, by the majority vote, **ADOPTED**.

5. Accordingly, a consolidated decision adopted by the Municipal Council is recorded as follows:

5.1 That Council approves a recommendation of the Ethics Committee arising from the outcome of the Hearings conducted 2023-04-18; 2023-04-20; 2023-04-21; 2023-05-03; and 2023-05-23 in respect of the Alleged Breach of the Code of Conduct for Councillors due to failure by certain Councillors to convene Community Engagements during Quarter One (01) of the 2022/2023 Financial Year (July – September 2022), and with specific outcomes being recorded as follows:

No.	Name of Councillor	Plea	Sanction
5.1.1	Councillor NF Majola	Plea 1: Guilty Plea 2: Not Guilty	Formal Written Warning
5.1.2	Councillor M Mbambo	Plea 1 & 2: Guilty	Formal Written Warning
5.1.3	Councillor DM Nsundwane	Plea 1 & 2: Guilty	Formal Written Warning
5.1.4	Councillor TJ Mkhize	Plea 1: Guilty Plea 2: Not Guilty	Formal Written Warning
5.1.5	Councillor JB Maphumulo	Plea 1 & 2: Guilty	Informal Verbal Warning
5.1.6	Councillor ZA Solomon	Non-Attendance at Scheduled Hearing Case resolved in her absence as follows: Plea 1 & 2: Guilty	R2 500.00, Subject to a further decision whether another R2 500.00 for disrespecting the Ethics Committee by not attending the scheduled hearing will be suspended, as per the Council decision of this meeting.
5.1.7	Councillor A Rampersad	Non-Attendance at Scheduled Hearing Case resolved in her absence as follows: Plea 1 & 2: Guilty	R2 500.00, Subject to a further decision whether another R2 500.00 for disrespecting the Ethics Committee by not attending the scheduled hearing will be suspended, as per the Council decision of this meeting.
5.1.8	Councillor SB Cele	Plea 1 & 2: Guilty	Verbal Warning
5.1.9	Councillor DR Nowbuth	Non-Attendance at Scheduled Hearing Case resolved in her absence as follows: Plea 1 & 2: Guilty	R2 500.00, Subject to a further decision whether another R2 500.00 for disrespecting the Ethics Committee by not attending the scheduled hearing will be suspended, as per the

No.	Name of Councillor	Plea	Sanction
			Council decision of this meeting.
5.1.10	Councillor TV Xulu	Plea 1 & 2: Not Guilty	Formal Written Warning
5.1.11	Councillor JL Mchunu	Plea 1 & 2: Guilty	Informal Warning
5.1.12	Councillor M Johnson	Plea 1 & 2: Not Guilty	Informal Warning

- 5.2** That, in view of .1 above, the outcome revealed that twelve (12) Councillors have been found to be in breach of the Code of Conduct for Councillors for failing to convene Community Engagements during the aforesaid period, and with the sanctions recommended ranging from verbal; written warnings; and imposing a fine in the amount of R2 500.00 (Two Thousand Five Hundred Rand), depending on the severity of the breach and the conduct of Councillors, with the full details being reflected in the table in .1 above.
- 5.3** That, it be noted that the 12 Councillors in breach and sanctioned accordingly have a right to submit an appeal to the MEC for Cooperative Governance and Traditional Affairs, within a period of fourteen (14) days upon receiving official notification of the Council decision, and to give reasons for appealing the Council decision.

**NOTICE OF MOTION
IN TERMS OF SECTION 18 OF THE RULES OF ORDER
BY-LAW, 2014, AS AMENDED**

1. NOTICE OF MOTION: PROPOSED BY COUNCILLOR J ANNIPEN AND SECONDED BY COUNCILLOR J NAIDOO: CITY'S SOCIAL HOUSING PROGRAMME (22/2)

This Council noting that:

The City's social housing programme seeks to address the housing backlog within eThekweni and has enlisted social housing programme companies ("Developers") who have built hundreds of flats in Phoenix and other suburbs.

Further noting that:

Proposed beneficiaries have been exploited through prolonged tenancies and rentals which are outside of SHRA rental structure of between R350.00 and R2250.00.

Therefore, in the interest of social justice and these vulnerable individuals,

This Council resolves that:

Executive Committee urgently consider the following recommendations and reports its fundings to Council.

1. Identify all “Developers” which have benefited from SHRA subsidies.
2. Establish a “Rent to Own” beneficiaries register.
3. To urgently regularize these beneficiaries.

In motivating the above motion on the City’s social housing programme, Councillor J Annipen of IFP mentioned that home ownership was known for being the first step to economic emancipation for any individual. That the Municipality also has a crisis in terms of addressing housing backlog matters; absence of homeowners’ registers as well as registers for those individuals those who still require houses. Reference was made to the State President releasing proclamation for the Municipality to recover R400 Million from Developers who had received funding from the Social Housing Regulatory Authority.

That the Motion under discussion then intends assisting the Council to regularize beneficiaries of the social housing schemes, based on the subsidy that was given by the National Government to the Developers, appointed by the Municipality. That apparently twenty (20) years have lapsed since the first development commenced, and with beneficiaries still making rental payments to the Developers. Further, that the same Developers in turn are not making the necessary payments to the Municipality for rates, taxes, and services, it being cited that the Developers to date owed R83 million to the Municipality. In this regard, it was advised that the Municipality should regularize the beneficiaries through handover of title deeds, as the Municipality might find itself in tough predicament in the future.

Commenting on the Motion, the DA confirmed that the issues raised herein are of a sensitive nature and it being unfortunate that the residents still occupy these properties on a rental basis within eThekweni. It being mentioned that the root cause was that the beneficiaries had initially applied for GAP housing as the scheme was alleged to be rent to own scheme. Also, that private Developers who were appointed to assist Government in this regard, have reaped the benefits of this programme through grant funding and subsidies provided. Therefore, the DA supported the motion from the IFP to request the Executive Committee to urgently investigate the matter and reports its fundings to the Council.

However, as some members were not in support of the Motion, the matter was put to the vote. With 168 Councillors present, 84 Councillors (DA – 39, EFF – 20, IFP – 13, Action SA – 03, ACC – 01, ACDP – 01, APF – 01, ATM - 01; ALJAMAH – 01; MF - 01, MOSA- 01; UIM – 01 and VF Plus – 01) voted in favour of the motion and 81 Councillors (ANC - 75, ABC – 02; AIC- 01, ADEC – 00; DLC – 00; JEP -01; KZNI – 01 and NFP – 01) voted against the motion. 03 Councillors (PFP – 01, PRM – 01 and TA- 01) abstained on the matter.

Therefore, the above-mentioned Motion was, by the majority vote, CARRIED.

2. NOTICE OF MOTION: PROPOSED BY COUNCILLOR J ANNIPEN AND SECONDED BY COUNCILLOR S GOVENDER: THE DISTURBING REVELATIONS UNVEILED BY INDEPENDENT INVESTIGATING COMPANY IFS, AROUND AWARDING OF TENDERS BY THE MUNICIPALITY TO BUSINESSPERSONS WHO ARE UNDER INVESTIGATION AND IN COURT FOR FRAUD AND CORRUPTION (9/R)

This Council noting that:

The disturbing revelations unveiled by independent investigating company IFS, around awarding of tenders by this municipality to businesspersons who are under investigation and in court for fraud and corruption amounting to almost half a billion rand.

Further noting that:

Such entities continue to benefit from tenders despite these investigations and conflicts with the law.

This Council resolves that:

Executive Committee urgently:

1. determine the names of businesses/ persons who have ongoing investigations/ pending court cases against them.
2. Formulate guidelines and recommendations, in accordance with the SCM policy, for the SCM Unit, including but not limited to, temporary blacklisting such persons/ entities pending the conclusion of investigations and court hearings.
3. Report its findings and recommendations to this Council for further deliberations and approval.

CARRIED.

3. NOTICE OF MOTION: PROPOSED BY COUNCILLOR V REDDY AND SECONDED BY COUNCILLOR A SHAHEED: ALLEGED BRIBERY COLLECTION BY DA CHATSWORTH WARD COUNCILLORS FROM CONTRACTORS WHO WERE AWARDED A MULTI-MILLION RAND TENDER BY THE MUNICIPALITY FOR REPLACING WATER MAINS IN CHATSWORTH. (2/10/1/1/4)

It should be noted that at the time of tabling this Notice of Motion, the Author, Councillor V Reddy of ADEC had already left the meeting, as per the permission granted to him by the Speaker. However, as the necessary arrangements have been made, in terms of Rule 18(11) of the Rules of Order By-Law 2014, as amended, Councillor SR Moodley of MOSA moved the Notice of Motion.

This Council noting that:

Recently media reports concerning alleged bribery collection by DA Chatsworth Ward Councillors from contractors who were awarded a multi-million-rand tender by the Municipality for replacing water mains in Chatsworth.

The allegations are supported by a widely circulated voice recording which features DA MPL Mergen Chetty's voice, instructing the Councillors to channel the bribe money through the party's constituency funds.

Further noting that:

Council is deeply concerned with these allegations as they bring the Council into disrepute and places the Council's ethical standards at risk.

Therefore, in the interest of justice and clean governance

This Council resolves that:

The Executive Committee considers and tasks the Office of the Speaker to urgently carry out a forensic investigation into these allegations, The investigation's outcomes must be reported back to the Council with recommendations on legal action, including criminal charges, to be taken against the implicated Councillors.

CARRIED.

4. NOTICE OF MOTION: PROPOSED BY COUNCILLOR ZM MNCWANGO AND SECONDED BY COUNCILLOR M KUBHEKA: INSOURCING ALL SECURITY PERSONNEL WITHIN THE MUNICIPALITY THAT ARE UNDER PRIVATE SERVICE PROVIDERS (8/2/1/4/4)

This Council noting that:

1. The Municipality is spending a lot of money on private security companies.
2. The City is heavily reliant on private service providers to secure all properties and Municipal Entities.

Council hereby resolves that Executive Committee investigates the following and report back to the Council:

1. Ensure that all security personals are insourced with the Municipality.
2. All security guards that are currently on sites are employed internal and no one is victimized.
3. During adjustment budget, the City prioritises the in-sourcing of security personnel that are under private service providers in entities and departments of the City.

Following tabling of the above motion by Councillor ZM Mncwango of ActionSA, the below MOTION TO AMEND, by the IFP was submitted, as they cited that the motion does not have any stipulated timeframe for the Executive Committee to finalise its investigation.

In terms of Rule of Order By-Law 20(4), Councillor MS Nkosi, seconded by Councillor J Annipen, moved as a procedural motion to amend the above recommendations by the addition of recommendation 4, as follows:

4. *That, the Executive Committee provides to the Council a report on its findings within, but not later than three (03) months, following the approval of this Motion in this Council meeting.*

CARRIED

Subsequently, the ANC supported the motion, however, they also cited a challenge with regards to recommendation 3 of the motion. They mentioned that assessments must be conducted in terms of cost analysis, etc, it being recalled that the Council had undertaken a similar exercise in the past, where employees under private service providers within Durban Solid Waste Unit had to be insourced, and indication being given that with this similar approach being proposed for security personnel, certain adjustments will have to be made.

In this regard, and in terms of Rule of Order By-Law 20(4), Councillor NI Madlala seconded by the Mayor, Councillor TM Kaunda moved as a procedural motion to amend the above recommendations by the addition of recommendation 4, as follows:

5. *That Council mandates the City Manager to undertake a feasibility study and report back to Council, in this regard.*

CARRIED

Whereafter, it was reported by the IFP that a benchmarking exercise was already conducted in the past on the option of insourcing security personnel. However, that the previous benchmarking exercise or assessment can be utilised as reference, and that updated assessments should be undertaken, given that new developments which have occurred between that period and the present time will have to be considered and incorporated in the new feasibility study.

Upon an enquiry by the EFF, on whether any further amendments were allowed in terms of the Rules of the Order By-Law, 2014 as amended, the Head: Legal and Compliance read Rule 20 (6) which specifies that: - “A Councillor may not move more than one amendment to any original motion.” In this instance, the Head advised that Councillor Nkosi and Madlala, who had already move one amendment to the original motion, were no longer allowed to move for another amendment on the original motion in terms of the Rules.

The Head further advised that the Rules do allow for procedural motion to be raised when an original motion is being considered, however, any amendment may not alter the substance of the original motion.

Thereafter, the Author of the original motion, Councillor Mncwango of the ActionSA confirmed that the substance of the motion is insourcing personnel, therefore addition of the motion below by the EFF is viewed not in contradiction with the original motion.

Accordingly, and in terms of Rule 20(4), Councillor OB Mvubu seconded by Councillor K Khambule both from the EFF, moved as a procedural motion to amend the above recommendations by the addition of recommendation 6, as follows:

6. *That during the budget adjustments, the Municipality prioritizes the in-sourcing of Security Personnel and Cleaners currently owned by private service providers, and officially place them within the Municipal Entities and Departments.”*

CARRIED

Commenting on the matter, the APF and the PRM supported the motions and emphasised that, overall, the insourcing of employees is essential to curb exploitation thereof.

However, the DA whilst noting that Security Personnel and Cleaners currently employed by private service providers might be exploited, they dissented on the matter. An indication being given that the root cause for maladministration within the outsourced security and cleaning services stems from what the DA viewed as blatant Municipal appointments of companies with no relevant experience and qualities for the required fields, and with the appointments being made in line with political affiliations.

The DA further mentioned the proposed idea of insourcing should also take into consideration the current pros and cons, including various challenges thereof, as well as risks and cost involved, with the Municipal key core objectives, including provision of services in a sustainable manner as a fundamental consideration in paving a way forward on this matter. The DA stated that it was the responsibility of the Municipality to monitor performance of appointed service providers, including ensuring that employees appointed by the service providers are not being exploited, but are paid acceptable minimum decent salaries in line with the Labour Laws. Mention being made that the Municipality has over twenty-seven thousand (27 000) employees, and a view being submitted that the Municipality had also not been successful to effectively monitor performance of its employees.

Consequently, as some members were not in support of the Motion with amendments, the matter was put to the vote. With 159 Councillors present, 120 Councillors (ANC - 74, EFF – 18, IFP – 13, Action SA – 03, ABC – 01; AIC- 00, ACC – 01, ACDP – 01, ADEC – 00; DLC – 00; APF – 01, ATM - 01; ALJAMAH – 00; JEP -01; KZNI – 01, MF - 01, MOSA- 00; NFP – 01, PFP – 00, PRM – 01, TA- 00, UIM – 01 and VF Plus – 01) voted in favour of the motion with amendments and 39 DA Councillors voted against the motion and the amendments. There were no abstentions recorded.

In this regard, the above motion was, by the majority vote, accordingly,

CARRIED, subject to addition of recommendations 4, 5 and 6 as follows:

- i. *That the Executive Committee provides to the Council a report on its findings within, but not later than three (03) months, following the approval of this Motion in this Council meeting.*
 - ii. *That Council mandates the City Manager to undertake a feasibility study and report back to Council, in this regard.*
 - iii. *That during the budget adjustments, the Municipality prioritizes the in-sourcing of Security Personnel and Cleaners currently owned by private service providers, and officially place them within the Municipal Entities and Departments.*
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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**

Meetings held on : 2023-06-23

2. **ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE**

Meeting held on : 2023-06-26

3. **EXECUTIVE COMMITTEE**

Meetings held on : 2023-05-30
: 2023-05-30
: 2023-06-15

4. **FINANCE COMMITTEE**

Meeting held on : 2023-06-21

5. **GOVERNANCE AND HUMAN RESOURCES COMMITTEE**

Meeting held on : 2023-07-19

6. **HUMAN SETTLEMENT AND INFRASTRUCTURE COMMITTEE**

Meetings held on : 2023-06-23
: 2023-07-20

7. **LOCAL LABOUR FORUM: GOVERNANCE AND CORPORATE HUMAN RESOURCES CLUSTER**

Meeting held on : 2023-06-22

8. **LOCAL LABOUR FORUM: HUMAN SETTLEMENTS AND INFRASTRUCTURE CLUSTER**

Meeting held on : 2023-06-27

9. **SECURITY AND EMERGENCY SERVICES COMMITTEE**

Meetings held on : 2023-06-14
: 2023-07-20

10. SPEAKER'S COMMITTEE

Meeting held on : 2023-06-22

ITEMS FOR NOTING

The Items for Noting, reflected on Pages 54 to 61 of the Agenda, pertaining to the items discussed and resolved at the Executive Committee level during the month of May and June 2023 were, **NOTED.**

The meeting terminated at 21h51 and moved into in-committee.

APPROVED AT THE MEETING OF THE ETHEKWINI COUNCIL ON 2023-09-28.

SPEAKER