



# **eThekweni Municipal Council**

## **MINUTES**

**Meeting held Tuesday, 2022-06-07**

# No. 16

# MINUTES

# OF

# ETHEKWINI MUNICIPAL COUNCIL

Meeting held on Tuesday, 2022-06-07T15:13

(As a Continuation of Meeting Adjourned 31 May 2022),

at Inkosi Albert Luthuli International Conventional Centre, Durban.

**PRESENT :** Councillors TE Nyawose (Speaker), TM Kaunda (Mayor), PG Mavundla (Deputy Mayor), A Abdul, J Annipen, AD Beesley, A Beetge, S Bhanprakash, M Billy, T Biyela, JM Black, NJ Bollman, M Brauteseth, WJD Burne, MH Buthelezi, KPM Cele, SB Cele, SP Chebure, J Chetty, GD Clarivette, R Cloete, TP Collins, SV De Boer, Z Dzanibe, J Essop, BA Fortein, SN Gabela, GM Gasa, DM Gcabashe, FO Gcabashe, NBC Godlwana, R Gokool, G Govender, S Govender, Y Govender, NL Graham; BR Gumede, NC Gumede, S Gumede, BM Gwala, MS Gwala, GJ Hegter, MM Hlengwa, NP Hlomuka, SD Hlongwa, F Ismail, MF Ismail, LBS Jali, DM James, M Johnson, MA Jokweni, K Khambule, MH Khan, KNN Khubone, NL Khuzwayo, ZW Khuzwayo, SNC Khwela, A Kissoon, BG Kubheka, V Kunju, CJ Laing, SW Lushaba, M Lutchmen, WM Luthuli, ME Mabaso, RD Macpherson, MA Madlala, NI Madlala, SR Madlala; A Maharajh, RP Maharaj, S Maharaj, FN Majola, TG Makhanya, HS Makhathini, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, KT Mbhele, RP Mbonambi, BA Mchunu, JL Mchunu, SW Mcineka; RL McKenzie, X Mdlazi, FW Mdletshe, SM Memela, SP Mfeka, K Mhlaba, GN Mhlongo, NM Mhlongo, SE Mhlongo, T Miya, MB Mjadu, AZ Mkhize, KV Mkhize, MA Mkhize, ME Mkhize, MP Mkhize, NN Mkhize, NA Mkhize, P Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, BR Mngadi, DK Mngadi, E Mngadi, S Mngadi, SV Mngadi, MR Mngonyama; TJ Mnguni, BV Mngwengwe, PB Mnikathi, ZO Mnomiya, S Mnyandu; T Mohamed, MV Molife, SR Moodley, ND Motseke, SB Mpanza, NP Msibi, LI Msomi, NP Msomi, LG Mthembu, SSS Mthethwa, TD Mthethwa, TM Mthethwa, N Munien, OB Mvubu, ZP Myeni, SK Mzimela, BD Naidoo; J Naidoo, V Ncukana, WP Ndiweni, NB Ndlela, AB Ndlovu, MF Ndlovu, PB Ndlovu, NS Ndlovu, V Ndlovu, SG Nene, TH Nene, SP Ngcobo, SB Ngcongo, S Ngema, MM Ngiba, DB Ngubane, LE Nkomeni, MS Nkosi, DR Nowbuth, XM Nqweniso, DM Nsundwane, SH Ntombela, PC Ntshangase, BT Ntuli, N Ntuli, NZ Ntuli, PB Ntuli, B Nxumalo, MR Nxumalo, PH Nxumalo, NN Nyanisa, MV Nzimande-Madlala, AAK Paruk, BW Phewa, DT Pillay, DR Pillay, P Pillay, GDA Pullan, B Radebe, 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, N Sibiyi, LC Sikhakhane, BSB Sindane, EL Singh, J Singh, S 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, NY Young, JN Zondi, M Zondi, N Zondi, ON Zondi-Mthembu and TG Zungu.

ABSENT : Councillors SP Mfeka, SG Nene, I Syed (left early), J Essop (left early), B Fortein (Municipal Business), SPG Ngcobo (leave), BV Mngwengwe (left early), FN Majola, TJ Mnguni, CN Sisoka, MM Ngiba, SR Ngiba, A Shaheed, HM Van Der Ryst (leave – Personal Commitment), Y Govender (leave), RD McPherson (leave), NP Msomi (leave), A Rampersad (leave), KS Sibisi (leave), PB Ntuli (leave) and DM James.

AMAKHOSI

PRESENT : None

AMAKHOSI

ABSENT : Inkosi S Mlaba, Inkosi JJ Shangase and Inkosi EB Shoji (all Personal Commitments Leave).

OFFICIALS

PRESENT : Messrs/Mesdames TB Mbhele (Acting City Manager), M Mhlongo (Head: Legal & Compliance), BM Mhlongo (Deputy Head: Office of the Speaker), T Ndlovu (Senior Manager: Secretariat) and N Mthembu Chief Committee Officer).

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**(At the commencement of the meeting 184 Councillors were present, comprising ANC -82, DA - 49, EFF - 22, IFP - 12, ASA - 03, ABC - 02, ACC - 01, ACDP - 00, AIC -02, ADEC - 01, APF - 01, ATM - 01, AL JAMA-AH - 01, DLC - 01, JEP - 01, KZNI - 01, MF - 01, MOSA - 00, NFP - 01, PFP - 00, PRM - 01, TA- 00, UIM - 01 and VF Plus - 00).**

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1. NOTICE CONVENING THE MEETING

The Acting City Manager read the Notice convening the Council meeting which was a continuation of the Council meeting adjourned on 2022-05-31 due to time constraints.

2. OPENING

It was noted that welcome has already been extended during the opening of the Special budget meeting which preceded this continuation of the ordinary Council meeting.

3. AFRICAN UNION AND NATIONAL ANTHEM

It was also noted that Anthems have already been sung at the commencement of the Special Budget meeting which preceded this ordinary Council meeting.

4. OPPORTUNITY FOR PRAYER/MEDITATION

Likewise, the moment's silence has already been observed during the Special Budget meeting which preceded this ordinary Council meeting.

5. OFFICIAL ANNOUNCEMENTS

With this being a continuation meeting, there were no announcements made, except noting the importance of getting Councillors to observe proper conduct during the proceedings, as per the requirements in terms of the Rules of Order Bylaw.

6. SPEAKER'S REPORT

It was noted that the Speaker's Report was presented during the Council meeting of 31 May 2022 which was adjourned due to time constraints and is being continued today.

7. APPLICATIONS FOR LEAVE OF ABSENCE

**RESOLVED:**

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

**COUNCILLORS**

Councillor B Fortein	:	2022-06-07 (Municipal Business)
Councillor: SPG Ngcobo	:	2022-06-07 to 2022-09-01
Councillor J Essop	:	2022-06-07 (Requested to leave at 15h30)
Councillor I Syed	:	2022-06-07 (Request to leave at 16h30)
Councillor BV Mngwengwe:	:	2022-06-07 (Request to leave at 16h30)
Councillor Van Der Ryst	:	2022-06-07 (Personal Commitment)
Councillor Y Govender	:	2022-06-07 (leave)
Councillor RD Mcpherson:	:	2022-06-07 (leave)
Councillor NP Msomi	:	2022-06-07 (leave),
Councillor A Rampersad	:	2022-06-07 (leave)
Councillor KS Sibisi	:	2022-06-07 (leave)
Councillor PB Ntuli	:	2022-06-07 (leave)

**AMAKHOSI**

Inkosi S Mlaba	:	2022-06-07 (Personal Commitment)
Inkosi JJ Shangase	:	2022-06-07 (Personal Commitment)
Inkosi EB Shoji	:	2022-06-07 (Personal Commitment)

8. DECLARATION OF INTEREST

The standing declaration of Councillor V Reddy of ADEC was noted as it pertains to him being a Member of the Umgeni Water Board.

9. CONFIRMATION OF MINUTES: MEETINGS HELD: 2022-03-31, 2022-04-04 (Ordinary), 2022-04-04 (In-Committee); 2022-04-28 and 2022-05-18 (Special).

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

- (i) 2022-03-31 were tabled, moved by Councillor Syed and seconded by Councillor Madlala
- (ii) 2022-04-04 were tabled, moved by Councillor PC Ntshangase and seconded by Councillor Hlongwa
- (iii) 2022-04-04 (In-Committee), were tabled, moved by Councillor Hlomuka and seconded by Councillor NP Mkhize
- (iv) 2022-04-28 were tabled, moved by Councillor NP Mkhize and seconded by Councillor Sabelo
- (v) 2022-05-18 were tabled, moved by Councillor Young and seconded by Councillor PC Ntshangase

Thereafter, it was

**RESOLVED:**

That the Minutes of the eThekweni Municipal Council meetings held 2022-03-31, 2022-04-04 (Ordinary), 2022-04-04 (In-Committee), 2022-04-28 and 2022-05-18 (Special), as circulated and taken as read, be and they are hereby confirmed.

10. MATTERS ARISING  
None.

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

The following Questions in terms of Section 27 of the Rules of Order were submitted:

11.1 Questions submitted by Councillor G Govender regarding Residents of the Bayview Rental Stock (Flats)

Residents of the Bayview Rental Stock (Flats) who applied for title deeds from Housing a number of years ago have still not received their Title deeds. Some of these residents paid a transfer fee of R600.00 to the Municipality as per the option provided by the Municipality. Since then, a number of Council rented flats in Bayview are in a state of despair and have now deteriorated even further, these conditions are hazardous to the occupants.

With this background, I pose the following questions:

- 1. **How many rental units are there in Bayview rental stock?**
- 2. **How many legal tenants have already applied but not received their Title Deeds from the Municipality as per the National Housing Discount Programme?**
- 2.1 **How many residents have not applied for their Title Deeds has out of date?**

3. **How many of these flats have functional Fire Extinguishers in case of a fire?**
4. **Does the eThekweni Housing Rental Stock have a list of all affected flats with structural despair?**
- 4.1 **If no, can this list be compiled by the relevant officials and shared with the Ward Councillor?**
5. **With reference to the information provided in question 4 above, what plans are in place to allocate funds for rehabilitation of these flats.**
6. **How many of the residents currently occupying these flats are in arrears?**
- 6.1 **What has been done to date in order to recover this cost of arrears?**
7. **How many paying tenants are currently living in these flats?**
8. **What is total income of rent received per month?**
- 8.1 **What is the loss of rental income per income?**
9. **If these arrears are unrecoverable, will the Municipality consider a debt write-off and return those tenants to the payment systems?**
10. **Will the housing department regularize structures built on the Council land (other than the flats) before offering a Title Deed to these affected residents?**
11. **What action, if any, is the department taking against those dealing and involved with illegal substances on this Council property who reside in Council flats?**

**WITHDRAWN** on request by Councillor Mthethwa on the basis that other avenues will be used to solicitate responses to the question.

11.2

Questions submitted by Councillor S Mngadi (7/12/3/1)

In October 2021, in an address to the nation, President Cyril Ramaphosa announced a Covid-19 stimulus package to boost the local economy. Part of this package was the allocation of funds to create a Presidential Employment Programme to bolster services at local government level.

The eThekweni Programme, which was approved by the City's Executive Committee in the beginning of February, was to begin a month late already soon after. This however is seemingly not the case as the programme has still not seen progress past what is now administrative hurdles.

Given the above, we wish to enquire, within the Economic Development and Planning Cluster, on the following questions:

1. **What is the planned commencement date of the eThekweni PEP Programme?**

2. **How much money has National Treasury released to the Municipality to date?**
3. **What is the financial implications of this delay given that National Treasury requires money that is not used to be sent back?**
4. **Is there any truth to the allegations that 3rd party contractors are holding this process up because they want to be included as project implementers and unduly benefit from this programme?**
5. **What are you saying about the 10500 people you have promised work but have not yet communicated to regarding their employment, all that has been sent is an SMS on May 5<sup>th</sup> 2022?**
6. **Given that this is a 6 month long project, what is the realistic remaining time left and how will this affect the effectiveness of this project?**
7. **The project was ready for implementation in January as per Economic Development & Planning Committee (ECOD) report in February 2022) and was subsequently delayed due to changes you are on record saying needed to be made, do you take responsibility for the disastrous rollout of this project given the delays these subsequent changes have caused?**
8. **What will the PEP look like if it will be implemented?**

Councillor PC Ntshangase provided the following respective responses:

1. The PEP programme has commenced with effect from 1 May 2022, with different projects having different commencement dates.
2. R293 Million.
3. In light of the challenges being experienced by the municipality, due to the delay and other challenges, the municipality has made a request to National Treasury to roll-over the funds. We are awaiting confirmation.
4. There is no truth to the allegations.
5. The individuals that were nominated are being invited to register for the relevant projects. It should be noted that the programme would benefit 10500 people, which includes 2318 individuals from the existing EPWP programme. There are agriculture projects and specific projects in informal settlements that are still under consideration. These projects will employ a separate process to engage individuals for these projects.
6. The plan was to engage the individuals for 5 months, and the municipality is still committed to that.
7. The implementation plan needed to be amended to ensure the programme was compliant with the MFMA regulations. This has resulted in the delay.

8. There are multiple programmes that are being implemented and will be amended on an ongoing basis to deal with the significant challenges being faced by the municipality.

11.3

Questions submitted by Councillor RL Mckenzie (7/12/3/1):

Many of our Wards in the City are in a state because of no grass cutting and not tree felling.

I therefore pose the following questions:

1. **How many tractors do we have per district?**
2. **How many brush cutters do we have per district?**
3. **How many of the above are operational?**
4. **Why does it take so long for equipment to be repaired?**
5. **How many cherry pickers per district?**
6. **Employees are not cutting grass to the stipulated length, is there proper supervision?**
7. **Grass is not picked up and thereafter drain blockage occurs, going forward how do we prevent this?**
8. **What is the staff compliment per district?**
9. **Why is there always a shortage of Nylon?**
10. **What were the challenges, if any please explain?**
11. **What are the plans going forward to address these concerns?**

Councillor M Sithole provided the following respective responses:

1. Parks, Leisure and Cemeteries department is made of 10 districts  
**Districts Profiles:** To cover number of Tractors, Brush cutters, Chainsaws, Pole Pruners, Cherry Pickers and staff compliment per district

<b>Districts</b>	<b>01</b>	<b>02</b>	<b>03</b>	<b>04</b>	<b>05</b>	<b>06</b>	<b>07</b>	<b>08</b>	<b>09</b>	<b>10</b>	<b>Total</b>
tractors operational	01	04	05	11	05	02	02	16	13	00	59
Tractors not operational	03	10	12	09	04	04	01	45	13	01	102
B/cutters operational	16	50	20	38	03	06	40	45	60	15	239
B/cutters not operational	10	50	84	45	30	51	30	47	02	25	374
Chainsaw operational	02	05	06	08	00	02	01	03	04	05	36
Chainsaw not operational	05	00	04	02	00	03	00	00	00	00	14
Polepruner operational	00	01	06	09	02	02	02	03	04	01	30



Polepruner not operational	06	05	02	02	04	02	01	00	00	06	28	
Cherry pickers operational	01	00	01	01	05	01	01	00	02	00	12	
Cherry pickers not operational	00	02	01	01	00	01	01	01	00	00	07	
Staff complement	240	179	263	183	250	128	247	235	274	340	2339	
<i>noted that staff compliment is made of SPOs, Horticulturists, Administration, Law Enforcement Officers, Lifeguards, Facilities Assistants, Beach cleaning, General Assistants etc</i>												

2. Availability of spares due to delays in SCM contracts and limited budget here is no formal contracts of suppliers and service providers, all work orders are done via three quotes system. Challenges behind some spares can only be sourced overseas.
3. In-house staff is supervised as per set of standards. Some areas were cut by blades, could be slightly longer than the set standards. Verge coops have also a set standard height to cut as per scope of work. 262 co-ops require intense supervision however the challenge is that we only have 3 contractors.
4. Due to the grass cutting contract's scope of work "cut and leave" basis rake off the road onto the verge. To prevent this the Department has proposed work that will include "cut, rake and remove" a report was sent.
5. Nylon is the stock item obtained from MMB.
6. SCM contracts not being prepared and awarded timeously  
There is no contract in place the nylon contract is with CFO for approval
7. Aging plant and equipment – no replacement due to limited budget  
Critical positions – on responsibility allowances like Managers and Drivers  
Tedious SCM processes and limited budget  
Theft of brush cutters and machinery during Lockdown and 2021 Looting.  
Delays from workshop with regards to repairs of the machinery  
Budget cuts
8. Proper budgeting and planning in term of SCM tender processes
  - Decentralising
  - Refilling of all vacant SPO, Facility Assistant and General Assistant position
  - Council to avail budget for 12 cutting cycle and to change scope of work from cut, rake and remove.
  - Budget to purchase new tractors and additional small plan equipment
  - Transfer the grass cutting function and budget to PRC as per Council Resolution.
  - Department of Transport in the Province to transfer grass cutting budget to enable PRC to cut grass on Provincial Roads

11.4 Questions submitted by Councillor Y Govender

In 2019, the City Manager tabled a report reflecting that the scarce skills vacancy rate was standing at 3853 as of November 28, 2019. Key service delivery Units in the Municipality such as Electricity, Water & Sanitation, Safety & Security, Parks, Recreation & Culture, Metro Police and Fire were all severely impacted. The report also revealed that critical skilled posts, such as Mechanical Engineers, Civil Engineers, Professional Technologists, Architects, Electricians and Medical Officer, were not filled.

It is on this background that I pose the following questions:

- 1. What was the skills vacancy rate for the following years as at:**
  - 1.1 December 2020?**
  - 1.2 December 2021?**
  - 1.3 And for month ending March 2022?**
- 2. List the total number of vacancies in each of the following Units, amplifying where necessary:**
  - 2.1 Electricity?**
  - 2.2 eThekweni Water?**
  - 2.3 eThekweni Sanitation?**
  - 2.4 eThekweni Wastewater?**
  - 2.5 Roads and Stormwater?**
  - 2.6 Safety and Security, particularly Metro Police and Fire Department respectively?**
  - 2.7 Parks, Recreation and Culture?**
  - 2.8 Social Workers?**
  - 2.9 Engineering Unit?**
  - 2.10 Disaster Management?**
  - 2.11 Real Estate?**
  - 2.12 Environmental Health?**
  - 2.13 Pollution Control Unit?**
  - 2.14 Land Invasion Unit?**
  - 2.15 Durban Solid Waste (DSW)?**
- 3. How many critical skilled posts, remain unfilled in the following:**
  - 3.1 Mechanical Engineers?**
  - 3.2 Civil Engineers?**
  - 3.3 Professional Technologists?**
  - 3.4 Architects?**
  - 3.5 Electricians?**
  - 3.6 Water Technicians?**
  - 3.7 Medical Officers?**
  - 3.8 Water Distribution Officers?**
  - 3.9 DSW Law Enforcement, Leachate Plant Operators, Technicians, Technologists, Engineers, Senior Managers?**
- 4. How many posts are filled by people in acting positions?**

- 5. Which Units have a moratorium on filling vacancies?**
- 6. What are the reasons for the moratorium?**
- 7. For how long has the moratorium been in place?**
- 8. When will the moratorium be lifted?**
- 9. In essential services Units where there are high rates of vacancies, Metro Police and Fire how much money in overtime was claimed for the financial period 2020/2021, respectively?**
- 10. How many employees are currently suspended in eThekweni Municipality as at March 2022?**
- 11. What is the total number of funded vacant posts in eThekweni Municipality?**
- 12. What is the total number of unfunded vacant posts in eThekweni Municipality?**
- 13. When will organograms be updated for critical Units as listed in 2.1 to 2.15 above?**
- 14. When will an updated report be tabled to Executive Committee alternatively the Portfolio Committee on vacancies within the Municipality?**

Councillor Madlala provided the following respective responses:

- 1.1. The vacancy rate for December 2021 was 10,45%
- 1.2. The vacancy rate for March 2022 was 10,40%
- 1.3. The average vacancy rate for an organisation is 10 %, eThekweni Municipality is close to meeting this target.
2. The names of the units listed below are according to the current names of the units within eThekweni Municipality.
  - 2.1 Electricity Unit – 206 vacancies
  - 2.2 Water and Sanitation Unit – 313 vacancies
  - 2.5 Engineering Unit – 224 vacancies
  - 2.6.1 Fire And Emergency Unit – 468 vacancies
  - 2.6.2 Security Management Unit – 44 vacancies
  - 2.6.3 Metro Police Unit – 290 vacancies
  - 2.7 Parks Recreation and Culture Unit – 313 vacancies
  - 2.8 Health Unit – 116 vacancies
  - 2.10 Disaster Management and Emergency Services Unit – 19 vacancies
  - 2.11 Real Estate Unit – 15 vacancies
  - 2.12 Development Planning, Environment and Management Unit – 41 vacancies
  - 2.16 Cleansing and Solid Waste – 163 vacancies
  - 3.1 Mechanical Engineers
  - 3.2 Civil engineers
  - 3.3 Professional Technologist
  - 3.4 Architects

- 3.5 Electricians
- 3.6 Water Technicians
- 3.7 Medical Officer
- 3.8 Water distribution Officers
- 3.9 DSW Law enforcement, leachate plant operators, technicians, Technologists  
Engineers, Senior Managers
  - See attached list of Critical Posts – 469 posts Annexure A
- 4.1 71 Staff Receiving an Acting Allowance
- 4.2 981 Staff Receiving a Responsibility Allowance
- 5.1 No units have a moratorium
- 5.2 No units have a moratorium
- 5.3 No units have a moratorium
- 5.4 No units have a moratorium
- 6. Overtime spent for period 2020/2021 - R1,181,315,431.83
- 7. 107 Employees suspended
- 8.1 There are 2842 funded vacancies as of 12 May 2022
- 8.2 There are 14046 unfunded vacancies as of 12 May 2022
- 9. All organograms are updated
- 10. As and when required.

11.5 Questions submitted by Councillor ZW Khuzwayo

The Emona Sunhills Housing project, located in the Tongaat area, more specifically Emona was built to cater for previously disadvantaged persons in Ward 61. The construction of the Civil Infrastructure for this project had commenced on the 01 September 2017. The project is currently beset with multiple problems.

It is on this background that I pose the following questions:

- 1. What was the scope of works for phase 1 of this project?**
- 2. Has the construction of Sewer Services including tie into Main Municipal Line been completed successfully? If not, why not?**
- 3. Has the construction of Water Services including tie into Main Municipal Line been finalised? If not, why not?**
- 4. Has the construction of Storm Water Management System (Roads, Platforms and attenuation Ponds) been completed successfully? If not, why not?**
- 5. Of the total of 250 sites provided for in Phase 1, how many have been competed?**
- 6. How many units have been illegally invaded and what is the City's law enforcement progress?**
- 7. How much has this project cost this City to date?**
- 8. How many more phases will be developed or is the development finalised?**
- 9. When will the following be finalised:**

- 9.1 Eradication of jojo tanks and water tankers?**
- 9.2 Sanitation and plumbing?**
- 9.3 Structural defects and cracks?**
  
- 10. What is the extent of the D'moss area on this site?**
- 11. When last was the D'moss area assessed by responsible officials?**
- 12. How much additional budget is required to remedy all the defects on this site?**
- 13. When will a review report be tabled to the Human Settlements and Infrastructure Committee?**
- 14. What actions or steps have been taken in respect of consequence management for 2 to 4 and 9.1 to 9.3 above. If no action has been taken, reasons are required ?**

Councillor PG Mavundla provided the following respective responses:

- 1. The scope of works for Phase 01 (250 units) of Emona Sunhill housing Project is as follows:  
Installation of infrastructure

Service Specifications:

- Sanitation - Waterborne sewerage
- Roads - black top roads as per municipal standards
- Storm water - piped storm water drainage Water-semi-pressure water reticulation Electricity - Prepaid connection to every site

Construction of Top Structure

Top Structure Specifications:

- Raft foundations and floor slab
- Concrete hollow block walls.
- Steel window frames
- Wooden doors and steel frames Roof tiles
- Roof tiles

The project comprises of 40m' free standing structures and double-storey units.

The levels of services approved in this project technically complies with the acceptable levels within the municipal area and with the Norms and Standards:

The contract for services started on the 28th August 2018 and it was completed on the 24th October 2018. The construction of Top structures commenced on the 3rd December 2018 and completed February 2022.

- 2.1 The installation of sewer reticulation has been completed and handed over the waste water operations network.
- 2.2 The installation of water reticulation has been completed and handed to water operations
- 2.3 The construction of the storm water management system i.e Roads, Platforms and Attenuation Ponds have been completed and the construction was done as per the approved storm water management plan of the project.
3. A total of 250 sites have been fully serviced and the construction of 250 Top structure units has been completed
4. A total of 16 units have been invaded and the matter is with the eThekweni Legal Department. An Attorney has been appointed to take the matter to High court to be granted a court order to evict the illegal occupants and also protect the greenfield portion of this project from being invaded.
5. Total cost spent on this project is as follows:
  - Infrastructure-R 20 096 893.67 (excl VAT)
  - Top structure-R 27 520 491.55 (excl VAT)
6. The project has a total yield of 1082 units and the project has been phased as follows
  - Phase 01 A-250 units-completed
  - Phase 01 B-355 units has not commenced
  - Phase 01C-253 units-has not commenced
  - Phase 02 A-150 units-has not commenced
  - Phase 02 B-310 units- has not commenced
  - The other phases will commence once capacity is available on the existing wastewater infrastructure.
  - Waste water design has commenced with upgrading of the existing infrastructure.
7. The eradication of the Jojo tanks will only be eradicated once the upgrade of the Mona Reservoir is complete.
- 7.1 The upgrading of the reservoir has commenced and it is anticipated to be completed in February 2023.
- 7.2 Sanitation and plumbing for phase 01 (250 units) has been completed.
- 7.3 There are no structural defects and cracks in the houses that have been constructed in this project. All the units were inspected and signed off before handing over to the approved Beneficiaries
8. The Emona Sunhill Housing Project is not covered by the current DMOSS layer meaning there is no Dmoss identified under eMona Sunhill Project. The minor DMOSS revision is done annually depending on new information that is received, such as species data, condition of vegetation, and environmental assessment reports, and if there have been formal approved development applications.
9. The major D'MOSS revision are done once in 5 years and the last one was done in 2018

10. There are no defects on site that require additional budget
11. There is no report to be tabled at the Human Settlements and Infrastructure Committee in regard to the additional budget required for the remedial of the defects
12. The issues raised as per 2.1 to 2.3 and 7.1 to 7.3, Actions were taken hence no consequence management taken.

#### **11.6 Questions submitted by Councillor S Chebure**

Since 2014, several residents in Dawnclyff – Westville, Ward 24 have been waiting for the Edgbaston Sewer reticulation project. The ratepayers feel that they are being prejudiced because funds earmarked for their project is being reprioritized for other projects from previous financial years. The sewer line is not a luxury but a necessity. Residents are still maintaining and carrying the costs of soak pits and septic tanks when neighbours and adjacent streets have been completed.

Due to the excessive delay of this project, there have been some illegal connections out of desperation which has severe health and safety implications for the people. The raw sewage from these illegal connections finds its way to flooding the environment thereby polluting the local rivers and streams adjoining. The Municipality is having to spend money and resources. All because this project remains incomplete.

Considering this I pose the following questions:

- 1. What was the project timeframe?**
- 2. How much funding is needed to complete this project and how much is currently available from the previous budget for this project?**
- 3. What plans are there to complete this project for these residents?**
- 4. If there are plans in place, then when these residents expect the project to be completed?**
- 5. If there are no plans for this project, what are the reasons for this?**
- 6. Were residents consulted about the failure of the project?**

Councillor PG Mavundla provided the following respective responses:

1. The construction of the Westville Edgbaston Sewer Reticulation began in 2010 and was expected to be fully completed in 2015. However, the following is to be noted:
  - a) Termination of the Phase 1 contract in 2012, due to poor performance by the service provider, resulted in a delay in the continuation of the project due to internal procurement procedures and challenges presented on site due to the incomplete works.

- b) Phase 2 was advertised twice in 2014 due to poor tender submissions received during the first tender advertisement. Phase 2 construction started in 2015 and was terminated in 2017, due to poor performance by the service provider.
- c) Construction of Phase 3 started in September 2018 and was completed in May 2020. Phase 3 also consisted of rectifying defects from the terminated construction of Phase 1.
- d) The final Phase 4 was expected to start construction on completion of Phase 3 in May 2020 but was delayed due to budget cuts as a result of the treasury budget cuts due to the Covid-19 pandemic outbreak.
- 2. A funding amount of R10,2m is required for completion of the final Phase Westville Edgbaston Sewer Reticulation Phase 4. R10,2m has recently been allocated for this project under the 2022/23 financial year Capital Budget Reprioritization.
- 3. Line department is in the final stages of the bid evaluation process, for the award of the Westville Edgbaston Phase 4 Sewer Reticulation, in order to implement this project in the 2022/23 FY.
- 4. Should the above contract be approved for construction by BAC, the following is anticipated:
  - a) Letter of award: July 2022
  - b) Construction commencement: August 2022
  - c) Practical completion: June 2023
- 5. A project implementation plan is in place as mentioned in item no.3-4 above.

Residents were informed after the failure (termination) of Phase 1 2013. Letters distributed to residents stating that they will be informed, by the Municipality, once the project was fully completed and thus be able to connect to the existing municipal infrastructure. department has been in contact with local ward leadership in terms of e-mail responses updates on the progress of this project.

#### 11.7 Questions submitted by Councillor S Sewshanker

Crime has escalated out of control on the Golden Mile. Residents and tourists are subjected to daily incidents of car thefts, robberies, high jacking and muggings along our most prized tourist attraction the multi-million-rand promenade which is frequented daily by thousands of visitors locally and internationally. Visible policing, round the clock patrols and quick response from our Law Enforcement Unit will ensure economic stability, and a sense of safety in this area. It is responsibility of our cities Law Enforcement Unit like Metro Police and the Security Management Unit to provide the services they were mandated for to our citizens and visitors.

In light of the above, I request that the following questions be answered:



- 1. How many Metro Police Officers are on foot patrol per shift on the Promenade?**
- 2. How many Metro Police members are patrolling on foot and on bicycles daily?**
- 3. How many law enforcement vehicles do Metro Police have on duty per shift daily?**
- 4. What is the shift breakdown as per hours in respect of night shift and day shift?**
- 5. How many Metro Police Satellite Stations do we have on the Promenade and how many Officers are assigned to each satellite station?**
- 6. What is the current status of the Contract (or reinstatement thereof) which was in place previously for Security Management Unit along the Beachfront and City Centre as in our previous term?**
- 7. What plans does the City have to curb the rising crime levels along our beachfront and City Centre?**
- 8. How long has the Security Management Unit been absent from the beachfront and why?**

Councillor Y Young provided the following respective responses:

1. There are approximately 2 Captains and 42 members on foot patrol per shift within the beach division. All deployments are subject to availability of staff and activities within the division.
2. Currently there are no bicycle patrols in use.
3. There are approximately 5 patrol vehicles within the beach division per shift.
4. The Beach Division has approximately 1 captain and 23 members per shift (2day/ 2 night shift on full strength). All deployments are subject to availability of staff and activities within the division.
5. Currently there are 2 Metro Police Satellite stations. Only one is operational due to repair/ flood damage.
6. The security contract for the whole council, including the beachfront is ongoing on a month to month basis. However where the site and the Unit utilising the security service is experiencing budget constraints, then that particular Unit request for a cancellation which was the case with the beachfront orders.
7. The city is currently engaging in a collaborated approach with SAPS to address crime.

On the 23 March 2022, The Acting City Manager approved the establishment of a new sub-division named City Safety Security under the auspices of the Security Management Unit to address the security shortcomings posing a threat to the City's infrastructure, going concern and the lives of ratepayers.

Working closely with Metro Police and SAPS, the newly established sub-division will ensure that there are permanent resources solely responsible for the mobilization of patrols to maintain law and order as well as maintain level of security in all identified crime hot spots areas within the CBD, Pinetown and Isipingo and any area deemed not safe.

It needs to be noted that the new sub-division is not yet operational as funding is still required to support the operational requirements.

8. The Beachfront security was last deployed on 30 April 2022 and due to budget constraints, the services were terminated

#### 11.8 Questions submitted by Councillor EL Singh

For the past 5 months residents of Phoenix and surrounds, are experiencing regular water outages, more especially the suburbs of Woodview, Foresthaven, Stanmore and Grove End. Outages have been ongoing, despite being told in December 2021, that the issue was resolved. Residents are up in arms, demanding answers due to the great inconvenience they have had to endure. They are also aggrieved at the dismal communication from the eThekweni Water and Sanitation Unit.

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

1. **What are the precise reasons for uMgeni Water failing to supply adequate water from the Durban Heights Reservoir?**
2. **What were the technical reasons for outages, emanating from the Durban Heights Reservoir in December 2021?**
3. **When was the issue resolved?**
4. **How was the issue resolved and was it a temporary or permanent resolution?**
5. **What is the precise reasons for water rationing affecting Phoenix and Verulam arising from supply at Durban Heights?**
6. **What is the turnaround strategy for this reservoir and the timelines for this?**
7. **Has budget been prioritized for this project and so, how much is required?**
8. **Why has uMgeni Water not subsidized or supplemented Auxiliary Services, such as tankers or water sachets, given the prejudice suffered by residents of eThekweni Municipality?**

9. Why doesn't eThekweni have its own bulk meter to measure how water uMgeni actually supplies eThekweni Municipality from Durban Heights and Hazelmere?
10. What Memorandum of Understanding (MOU) eThekweni Municipality have with uMgeni Water? A copy is required.
11. How much longer are the residents affected by the Phoenix 2 reservoir, expected to be inconvenienced?
12. Why has there been no media release from eThekweni detailing technical reasons for the water rationing?
13. When can we expect information from the department in the form of a notice or media update that can be disseminated to affected residents, which statement must not be vague or generic?
- 13.1 Why is Municipality not adhering to the scheduled times for the water cuts?
- 13.2 Is there a shortage of WDO's or switching officers?
- 13.3 How many vacancies exist in the EWS Northern Depot and for which jobs/positions? (Indicate for how long each position has been vacant)
- 13.4 Why are vacancies not filled timeously?
14. What is eThekweni Municipality's communication protocol for affected schools and who is the liaison?
- 14.1 What are the challenges with the EWS Call Centre?
- 14.2 How many staff are working during the day?
- 14.3 How many staff are working at night?
15. What mechanisms or relief are available from Municipality to consumers for reconciliation of accounts where air causes the meter to run creating a false consumption reading?
16. Will residents that are affected to be given some sort of concession/rebate adjustment to their bills?
17. What methods do technicians utilize to release air in the pipeline, when water is restored?

Councillor PG Mavundla provided the following respective responses:

- 1.1 Umgeni Water is erratic water quantities due to the clear water Reservoir 3 storage that is currently out of operations as it is in the process of being refurbished. Further to this there has been two major raw water pipelines that have been washed away due to the recent flooding in April 2022. The issue

that was resolved in December 2021 was that of the faulty shaft pumps at Durban heights treatment works and the high turbid water challenge that followed shortly after the shaft pump problem.

- 1.2 As widely reported in the media, the outages emanating from Durban Heights reservoir in December 2021 were due to a pump failure at the treatment works.
- 1.3 The matter was resolved in the late December 2021 and later compounded by high turbid water failure which was resolved in late January 2022
- 1.4 The issue of the shaft pumps was resolved by repairing the pumps by Umgeni Water. it was said that this was a permanent repair.
- 1.5 Precise reason or the water rationing of Phoenix and Verulam is as follows;
  - The damage of the two raw water pipelines into Durban heights water treatment works
  - The using of reservoir 2 instead of reservoir 3 which was taken offline some 3 years ago for refurbishment
- 1.6 The latest timeline shared by Umgeni Water at management meetings has been December 2022, but this might not be realised as the matter is still with the courts which is outside the entity's control.
- 1.7 Umgeni is presumed to have budgeted for this.
- 1.8 There hasn't been an indication of any form of subsidy from Umgeni as they too have since been grappling with their recovery plan in an effort to restore bulk water supply to the municipalities they service including eThekweni Municipality given that their infrastructure got badly damaged by the recent floods.
- 1.9 At all the point of sale (water supply by Umgeni at reservoir level) there is Umgeni bulk (sales) meter which is supplemented by eThekweni bulk meter (referred to as check meter) through which consumption from the Umgeni meter is verified to ensure that Umgeni Water bills eThekweni adequately.
- 1.10 A Bulk Supply Agreement (BSA) exists between Umgeni Water and eThekweni Municipality and monthly meetings are held between Umgeni Water and eThekweni Municipality in ensuring that the terms of reference and/or any other aspects in line with this agreement are adequately met.
2. This is fully dependent of the when the challenges faced by Umgeni water as mentioned above are resolved and when the Durban heights plants is back to its normal operating Philosophies
3. There has been plenty of media information release regarding this from EWS
4. As soon as timeframes are obtained from stakeholders Umgeni water, media releases can be drafted by both stakeholders in this situation UW and EWS corporate communications department
- 5.1 Scheduled times are being adhered to as best as the operations teams can adhere to. However, one must bear in mind that this is a complex hydraulic

system and there are numerous attributing factors that could delay in water being reaching consumers homes later than usual

- 5.2 Yes there is a shortage of WDO's at the north region depot
- 5.3 There are numerous vacancies for plumber post, WDO, supervisor handyman and artisan assistants and all RTFs have been sent timeously to our Human Capital department to process
- 5.4 Where applicable, the process of filling vacancies is initiated and proceed accordingly. However, since the Covid-19 pandemic there was a moratorium in filling vacancies and subsequently all funds were taken away resulting in the vacancies including those for which the process was in motion to be stalled. Post that moratorium, it has been impossible to fill such vacancies as there was no budget allocated to fill such posts.

12. REPORTS:

It was noted that none of the Members have declared interest on items appearing in the Agenda.

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

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**FIRST REPORT OF THE EXECUTIVE COMMITTEE**

(Meeting held 2022-05-17)

- PRESENT : Executive Committee Members TM Kaunda (Mayor and Chairperson), PG Mavundla (Deputy Mayor), NL Graham, T Miya, TM Mthethwa, MS Nkosi and ZR Sokhabase.
- ABSENT : Executive Committee Members Y Govender (Leave- Personal Commitment), NI Madlala (Leave-Municipal Business) and T Sabelo (Leave- Personal Commitments).

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1. REPORT OF HUMAN SETTLEMENTS AND INFRASTRUCTURE COMMITTEE:  
MEETING HELD 2022-05-03

(Page R1)

- 1.1 Proposed Granting of Rights to Use, Control or Manage Lease on Remainder of Portion of Erf 101 KwaDabeka: 81 Khululeka Drive, in Extent 2,0932Ha as Depicted on Plan No. 4696/77 (17/2/1/2/2/5):  
(Page 97: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

At the Support Committee level, the matter was approved through a majority vote. With 31 Councillors present, 24 Councillors (ANC - 14, IFP-2, EFF-3, ABC -1, ADEC-1, PRM-1, ACDP -1 and ATM - 1) voted in support of the recommendations and 7 DA Councillors abstained. At the Council level, it was corrected that the DA Members also supported this item. This was noted accordingly.

With the Executive Committee being in concurrence,

COMMITTEE RECOMMENDS:

- 1.1.1 That the Municipal Council declares in terms of section 14 of the Municipal Finance Management Act (MFMA) No. 56 of 2003, that:
- 1.1.1.1 The property described as Portion A of Erf 101 KwaDabeka in extent of 2,0932Ha is not required to provide a minimum level of basic Municipal services and is considered to be a surplus to the requirements of the Municipality for the period proposed for the granting of rights to use, control or manage the said property; and
- 1.1.1.2 The Municipality has considered fair market value of the asset, economic and community value to be received in exchange for the asset, with the current market value of the property being R10 466 000 (Ten Million Four Hundred and Sixty-Six Thousand Rand) and an assessed market rental of R69 773.00 (Sixty-Nine Thousand Seven Hundred and Seventy-Three Rand) per month has been considered.
- 1.1.2 That the Municipal Council approves the granting of rights to use, control or manage the capital asset described as Portion A of Erf 101 KwaDabeka in extent 2,093Ha as depicted on Plan No. SJ 4696/7 in terms of Regulation 34(1)(b) read with Regulation 36 and 41 of the Municipal Asset Transfer Regulation as follows:
- 1.1.2.1 A long-term right is proposed to be granted in respect of the capital asset;
- 1.1.2.2 The rental be assessed on the market value;
- 1.1.2.3 The property described as Portion A of Erf 101 KwaDabeka in extent 2,0932Ha be leased by way of public tender in accordance with the provisions of the Preferential Procurement Policy Framework which supports Radical Economic Transformation Framework at a basic rental of R69 773.00 per month, escalating by 7% per annum, and reviewable every 5 years for a period of forty years; and
- 1.1.2.4 All cost incidental to be borne by the lessee and all the developmental plans must be submitted to the Local Authority.
- 1.1.3 That the rental be suspended for up to three years from date of registration of the lease to allow for the development of the property, and should the Developer not complete the development within a three-year period, an application be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.

- 1.1.4 That subject to the adoption of .1 to .3 above and the approval by the Bid Adjudication Committee, authority be granted to the Head: Real Estate to sign all documents necessary to conclude the required lease agreement.

**ADOPTED.**

- 1.2 Proposed Granting of Rights to Use, Control or Manage Proposed SA on Part of the Remainder of Erf 1 Durban (17/2/1/2/5):  
(Page 123: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

At the Support Committee level the matter was approved through a majority vote. With 31 Councillors present, 24 Councillors (ANC - 14, IFP - 2, EFF - 3, ABC - 1, ADEC -1, PRM -1, ACDP - 1 and ATM - 1) voted in support of the recommendations and 7 DA Councillors abstained. At the Council level, it was corrected that the DA Members also supported this item. This was noted accordingly.

With the Executive Committee being in concurrence,

COMMITTEE RECOMMENDS:

- 1.2.1 That the Municipal Council declares in terms of Section 14 of the Municipal Finance Management Act (MFMA), No 56, 2003 that:
- 1.2.1.1 The property described as Proposed SA 875 on Part of the Remainder of Erf 1 Durban, in extent 5899m<sup>2</sup>, is not required to provide a minimum level of basic municipal services and is considered to be a surplus to the requirements of the Municipality for the period proposed for the granting of rights to use, control or manage the said property; and
- 1.2.1.2 The Municipality has considered fair market value of the asset, the economic and community value to be received in exchange for the asset, with the current market value of the property being R18 000.000.00 (Eighteen Million Rand), and an assessed market rental of R235 960.00 (Two Hundred and Thirty-Five Thousand Nine Hundred and Sixty Rand) per month has been considered.
- 1.2.2 That the Municipal Council approves the granting of rights to use, control or manage the capital asset described as Proposed SA 875 on Part of the Remainder of Erf 1 Durban in extent 5899m<sup>2</sup>, as depicted on Plan No. 4753/3, in terms of Regulation 34 (1)(b), read with Regulation 36 and 41 of the Municipal Asset Transfer Regulations, 2008, and the approval to comprise the following:
- 1.2.2.1 A long-term right is proposed to be granted in respect of the capital asset;
- 1.2.2.2 The rental be assessed on the open market value;
- 1.2.2.3 The property described as Proposed SA 875 on Part of the Remainder of Erf 1 Durban, in extent 5899m<sup>2</sup>, be leased by way of public tender in accordance with the provisions of the Preferential Procurement Policy Framework which supports Radical Economic Transformation Framework, at a basic rental of R235 960 per month, escalating by 7% per annum, and reviewable every five years for a period of forty five years;

- 1.2.2.4 All costs incidental to the transaction shall be borne by the lessee and all the developmental plans must be submitted to the Local Authority; and
- 1.2.2.5 That the rental be suspended for up to three years from the date of registration of the lease to allow for the development of the property, and should the developer not complete the development within a 3-year period, an application be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 1.2.3 That in terms of Section 211 and 212 of Ordinance 25 of 1974, the closure of the public open space and existing road areas over proposed SA 875 on Part of the Remainder of Erf 1, as per Hand Plan No.: SJ 4753/3, be approved.
- 1.2.4 That this closure be advertised via the Land Use Management application process, read together with Section 28 (2) of the eThekweni Municipality Planning and Land Use Management By-law 2016.
- 1.2.5 That in the event of objections being lodged to the proposed closure of Pportion of Proposed SA 875 on Part of the Remainder of Erf 1 Durban when it is advertised, the Planning and Land Use Management By-law process, be followed to attend these objections.
- 1.2.6 That subject to the adoption of .1 to .5 above and the approval by the Bid Adjudication Committee, authority be granted to the Head: Real Estate to sign all documents necessary to conclude the required lease agreement.

### **ADOPTED.**

- 1.3 Proposed Granting of Rights to Use, Control or Manage Proposed Lease 1 Erf 12281 Durban in Extent of 1457m<sup>2</sup> as Depicted on SJ Plan 4806/7 (17/2/1/2/5):  
(Page 181: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

The Executive Committee emphasized the importance of including specific location in the form of street address and suburb area when submitting reports of this nature. This was for the purpose of clear identification of the properties in question and to enable Members to conduct own research to verify details provided and the recommendations put forward. This was noted for rectification in future reports.

With the Committee being in concurrence,

### COMMITTEE RECOMMENDS:

- 1.3.1 That the Municipal Council declares in terms of Section 14 of the Municipal Finance Management Act No.56 of 2003, that:
  - 1.3.1.1 The property described as proposed lease 1 on Erf 12281 Durban in extent of 1457m<sup>2</sup> is not required to provide a minimum level of basic Municipal services and is considered to be a surplus to the requirements of the Municipality for the period of the proposed granting of the rights to use, control or manage the said property; and



- 1.3.1.2 The Municipality has considered fair market value of the asset, economic and community value to be received in exchange for the asset, and the current market value of the property being R17 800 000.00 (Seventeen Million Eight Hundred Thousand Rand) at an assessed market rental of R245 000.00 (Two Hundred and Forty Five Thousand Rand) per month.
- 1.3.2 That the Municipal Council approves the granting of rights to use control or manage the capital asset described as proposed lease 1 on Erf 12281 Durban in extent of 1457m<sup>2</sup> as depicted on Plan No.: SJ 4806/7, in terms of Regulation 34 (1) (b), read with Regulation 36 and Regulation 41 of the Municipal Assets Transfer Regulation 2008, and the approval to consider the following:
- 1.3.2.1 A long-term right is proposed to be granted in respect of the capital asset;
- 1.3.2.2 The rental be assessed on the open market value;
- 1.3.2.3 The property described as proposed Lease 1 on Erf 12281 Durban be leased by way of public tender in accordance with the provisions of the Preferential Procurement Policy Framework which supports Radical Economic Transformation Framework, at a basic rental of R245 000.00 per month, escalating by 7% per annum, and reviewable every 5 years for a period of 45 years;
- 1.3.2.4 All costs incidental to the transaction shall be borne by the lessee and all the developmental plans must be submitted to the Local Authority for approval prior any construction; and
- 1.3.2.5 The rental be suspended for up to three years from the date of registration of the lease to allow for development of the property and should the Developer not complete the development within a three-year period, an application be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 1.3.3 That subject to the adoption of .1 and .2 above and the approval by the Bid Adjudication Committee, authority be granted to the Head: Real Estate to sign all documents necessary to conclude the required lease agreement.

**ADOPTED.**

- 1.4 Proposed Granting of Rights to Use , Control or Manage Lease on Portion 31 of Erf 301 Springfield 20 Supply Road, in extent 3,1506 HA as Depicted on SJ Plan No. 4745/9 (17/2/1/2/5):

(Page 203: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

With the Committee being in concurrence,

**COMMITTEE RECOMMENDS:**

- 1.4.1 That the Municipal Council declares in terms of Section 14 of the Municipal Finance Management Act, No 56 of 2003, that:

- 1.4.1.1 The property described as Portion 31 of Erf 301 Springfield in extent 3,1506 Ha is not required to provide a minimum level of basic Municipal services and is considered to be surplus to the requirements of the Municipality for the period of the proposed granting of the rights to use, control or manage the said property; and
- 1.4.1.2 The Municipality has considered fair market value of the asset, the economic and community value to be received in exchange for the asset, and the current market value of the property being R78 660 000.00 (Seventy Eight Million Six Hundred and Sixty Thousand Rand) and an assessed market rental of R458 553.80 (Four and Fifty Eight Thousand Five Hundred and Fifty Three Rand Eighty Cent) per month has been considered.
- 1.4.2 That the Municipal Council approves the granting of rights to use control or manage the capital asset described as Portion 31 of Erf 301 Springfield in extent of 3,1506Ha as depicted on Plan No. SJ4745/9, in terms of Regulation 34 (1) (b), read with Regulation 36 and 41 of the Municipal Asset Transfer Regulation 2008, and the approval to consider the following:
- 1.4.2.1 A long-term right is proposed to be granted in respect of the capital asset;
- 1.4.2.2 The rental be assessed on the open market value;
- 1.4.2.3 The property described as Portion 31 of Erf 301 Springfield in extent of 3,1506ha, be leased by way of public tender in accordance with the provisions of the Preferential Procurement Policy Framework which supports Radical Economic Transformation Framework, at a basic rental of R458 553.80 per month, escalating by 7% per annum, and reviewable every five years for a period of 45 years;
- 1.4.2.4 That all costs incidental to the transaction shall be borne by the lessee and all the developmental plans must be submitted to the Local Authority; and
- 1.4.2.5 That the rental be suspended for up to three years from the date of the registration of the lease to allow for the development of the property and, should the Developer not complete the development within a three-year period, an application be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 1.4.3 That subject to the adoption of .1 and .2 above and the approval by the Bid Adjudication Committee, authority be granted to the Head: Real Estate to sign all documents necessary to conclude the required lease agreement.

### **ADOPTED.**

- 1.5 Proposed Granting of Rights to Use, Control or Manage Proposed Lease on Erf 12281 Durban:  
(Page 238: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

With the Committee being in concurrence,

#### COMMITTEE RECOMMENDS:

- 1.5.1 That the Municipal Council declares in terms of Section 14 of the Municipal Finance Management Act No.56 of 2003, that:

- 1.5.1.1 The property described as Proposed Lease on Erf 12281 Durban in extent of 825m<sup>2</sup>, is not required to provide a minimum level of basic Municipal services and is considered to be a surplus to the requirements of the Municipality for the period of the proposed granting of the rights to use, control or manage the said property; and
- 1.5.1.2 The Municipality has considered fair market value of the asset, economic and community value to be received in exchange for the asset, and the current market value of the property being R10 400 000.00 (Ten Million Four Hundred Thousand Rand), at an assessed market rental of R143 300.00 (One Hundred and Forty Three Thousand Three Hundred Rand) per month.
- 1.5.2 That the Municipal Council approves the granting of rights to use control or manage the capital asset described as Proposed Lease on Erf 1281 Durban in extent of 835m<sup>2</sup>, as depicted on Plan No. SJ 4803/8, in terms of Regulation 34 (1) (b), read with Regulations 36 and Regulation 41 of the Municipal Assets Transfer Regulation 2008, and the approval to consider the following:
- 1.5.2.1 A long-term right is proposed to be granted in respect of the capital asset;
- 1.5.2.2 The rental be assessed on the open market value;
- 1.5.2.3 The property described as Proposed Lease on Erf 2281 Durban be leased by way of a public tender in accordance with the provisions of the Preferential Procurement Policy Framework which supports Radical Economic Transformation Framework, at a rental of R143 300.00 per month, escalating by 7% per annum and, reviewable every 5 years for a period of 45 years.
- 1.5.2.4 That all costs incidental to the transaction shall be borne by the lessee and all developmental plans must be submitted to the Local Authority for approval prior to any construction. Rental might be suspended during any construction period at the discretion of the Head: Real Estate; and
- 1.5.2.5 That the rental be suspended for up to three years from date of registration of the lease to allow for the development of the property and, should the Developer not complete the development within three-year period, an application be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 1.5.3 That subject to the adoption of .1 and .2 above and the approval by the Bid Adjudication Committee, authority be granted to the Head: Real Estate to sign all documents necessary to conclude the required lease agreement.

### **ADOPTED.**

- 1.6 Proposed Granting of Rights to Use, Control or Manage Proposed SA 890 on Part of Portion 1 of Erf 91 New Germany in Extent 2,8107Ha as Depicted on SJ Plan No.: 4764/7 by Way of Long-Term Lease (17/2/1/2/5):  
(Page 260: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

With the Committee being in concurrence,

COMMITTEE RECOMMENDS:

- 1.6.1 That the Municipal Council declares in terms of Section 14 of the Municipal Finance Management Act No.56 of 2003, that:
- 1.6.1.1 The property described as Proposed SA 890 on Portion 1 of Erf 91 New Germany is not required to provide a minimum level of basic Municipal services and is considered to be a surplus to the requirements of the Municipality for the period of the proposed granting of the rights to use, control or manage the said property; and
- 1.6.1.2 The Municipality has considered fair market value of the asset and the economic and community value to be received in exchange for the asset and the current market value of the property is R25 296 300.00 (Twenty Five Million Two Hundred and Ninety Six Thousand Three Hundred Rand) at an assessed market rental of R2 023 704.00 (Two Million and Twenty Three Thousand Seven Hundred and Four Rand) per annum, and R168 642.00 (One Hundred and Sixty Eight Thousand Six Hundred and Forty Two Rand), per month has been considered.
- 1.6.2 That the Municipal Council approves the granting of rights to use control or manage the capital asset described as Proposed SA 890 on part of Portion 1 of Erf 91 New Germany in extent 2.810Ha, as depicted on Plan 4764/7, in terms of Regulation 34(1)(b) read with Regulations 36 and Regulation 41 of the Municipal Assets Transfer Regulation 2008, and the approval to consider the following:
- 1.6.2.1 A long-term right is proposed to be granted in respect of the capital asset;
- 1.6.2.2 The rental be assessed on the open market value;
- 1.6.2.3 The property described as Proposed SA 890 on part of Portion 1 of Erf 91 New Germany in extent 2.8107 Ha be lease by way of public tender in accordance with provisions of the Preferential Procurement Policy Framework which supports Radical Economic Transformation Framework, at a base rental of R2 023 704.00 per annum, escalating by 6% per annum and, reviewable every five (5) years for a period of forty-five years;
- 1.6.2.4 All costs incidental to the transaction shall be borne by the lessee, and all the developmental plans must be submitted to the Local Authority. We confirm that the decision to suspend rental is at the discretion of the Head: Real Estate;
- 1.6.2.5 The rental be suspended for up to three years from date of registration of the lease to allow for the development of the property and, should the Developer not complete the development within a three-year period, an application be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 1.6.3 That subject to the adoption of .1 and .2 above and the approval by the Bid Adjudication Committee, authority be granted to the Head: Real Estate to sign all documents necessary to conclude the required lease agreement.

**ADOPTED.**

- 1.7 Authority to Conduct Public Participation Process in Terms of the Municipal Asset Transfer Regulations (17/2/1/5):  
(Page 293 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

With the Committee in agreement,

**COMMITTEE RECOMMENDS:**

1.7.1 That the Municipal Council approves in principle the granting of long-term rights to use, control or manage the four Municipal Capital Assets listed below.

1.7.2 That authority be granted for the Accounting Officer to conduct Public Participation Process as envisaged in terms of Regulation 34(1) (a), read together with 34 (3) (b) of the Municipal Asset Transfer Regulations (MATR) 2008, for the proposed granting of long-term rights to use, control or manage various Municipal Capital Assets listed in Table A below, it being recorded the respective fair market value exceeds R10 000 000.00 (Ten Million Rand) and the duration of the proposed right to be granted exceeds three (3) years.

**Table A:**

NO.	PROPERTY DESCRIPTION	VALUE	PLAN
1	Erf 836 Dunns Grant	R 20 748 000.00	SJ 4785/9
2	Proposed Portion of Erf 517 Mobeni	R103 500 000.00	SJ 4801/0
3	Portion 755 of Erf 31 No.1560	R 19 000 000.00	SJ 4793/2
4	Erf 395 Savannah Park	R 22 747 500.00	SJ 4751/4

1.7.3 That public participation process be conducted in accordance with the provisions of the MTAR outlined in .2 above, and including:

1.7.3.1 Inviting local community and other interested parties to submit comments or representation.

1.7.3.2 Soliciting views and recommendation of National and Provincial Treasury.

1.7.3.3 Complying with Section 21A of the Local Government: Municipal Systems Act, 2000 by publishing notification through media, local newspaper(s) published in the area of jurisdiction of the Municipality, in newspaper(s) circulating in its area of jurisdiction and determined by the Municipality as a newspaper of record, or by means of radio broadcasts covering the area of jurisdiction of the Municipality.

1.7.4 That authority be granted to the Accounting Officer to conduct such public participation process as envisaged in .2 above at least 60 days before the meeting of the Municipal Council and requesting an approval in terms of Regulation 34(1)(b), read with Regulation 35 for the proposed granting of long-term rights to use control and manage the capital assets described as follows:

NO.	PROPERTY DESCRIPTION	VALUE	PLAN
1	Erf 836 Dunns Grant	R 20 748 000.00	SJ 4785/9
2	Proposed Portion of Erf 517 Mobeni	R103 500 000.00	SJ 4801/0
3	Portion 755 of Erf 31 No.1560	R 19 000 000.00	SJ 4793/2
4	Erf 395 Savannah Park	R 22 747 500.00	SJ 4751/4

**ADOPTED.**

1.8 Servitude Acquisition for 132kV Ottawa to Phoenix-North Overhead Transmission Line (17/2/1/4):  
(Page 315 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

Authority is sought for the Head: Real Estate to acquire/expropriate servitude rights over residential properties, numbers 19, 21, 25, 27, 29, and 31 on Meltonwood Crescent, Woodview.

In terms of the report these properties do not have registered servitudes for the existing 132 kV Overhead Transmission Line (OHTL) Circuit between the 275/132 kV Ottawa Substation and the 132 kV Phoenix-North Substation. The Unit proposes to register OHTL servitudes over the above-mentioned properties to ensure that the Municipality has unrestricted access for inspections, maintenance and breakdowns.

The Engineering Unit will be responsible for survey and drawing of necessary Hand Plans and the Real Estate Department will then acquire/expropriate the servitude. It was reported that the Municipality will bear the cost of acquiring/expropriation of the requirements, which will be at a market value or to be determined by the Head: Real Estates and estimated at R100 000.00 (One Hundred Thousand Rand), excluding VAT, per servitude and per property. The total estimate will be R600 000.00 (Six Hundred Thousand Rand), excluding VAT, for the servitudes to be registered over the 6 properties.

The acquisition/expropriation of the requirements would grant the eThekweni Municipality a legal authority to access, install, maintain and operate a 132 kV OHTL linking the Ottawa and Phoenix Substations. This OHTL enables the Electricity Unit to provide power to the Woodview area and the surrounding industrial, commercial, and residential areas.

With the Committee being in concurrence,

**COMMITTEE RECOMMENDS:**

1.8.1 That authority be granted to the Head: Real Estate to acquire servitude rights, over residential properties, numbers 19, 21, 25, 27, 29 and 31 on Meltonwood Crescent, Woodview, to register Overhead Transmission Line (OHTL) servitudes over the aforesaid properties to ensure that the Municipality has unrestricted access for inspections, maintenance and breakdowns. It being recorded that, currently, these properties do not have registered servitudes for the existing 132kv OHTL circuit between the 175/132 kV Ottawa Substation and 132 kV Phoenix-North substation. as indicated below:

ADDRESS	DESCRIPTION	OWNER	EXTENT (SQM)
31 Meltonwood Crescent	Erf 11 of Woodview	Singh Prem and Singh Priscilla	240
29 Meltonwood Crescent	Erf 12 of Woodview	Nathan Lloyd	240
27 Meltonwood Crescent	Erf 13 of Woodview	Subroyan Selvaraj and Subroyan Sakuthalay	240
25 Meltonwood Crescent	Erf 14 of Woodview	Naidu Shunmugam and Naidu Priscilla	240
21 Meltonwood Crescent	Erf 16 of Woodview	Parsad Ronnie Bhairo and Parsad Samilla Bhairo	240

19 Meltonwood Crescent	Erf 17 of Woodview	Pakeer Dayannd and Parker Aswanthie	240
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- 1.8.2 That subject to adoption of .1 above, authority be granted to the Head: Real Estate to deviate from the Supply Chain Management Regulations to negotiate for the acquisition of the Municipality's requirements, utilizing Regulations 36 (1) (a) (ii) and 36 (12) (a) of the Supply Chain Management Regulations.
- 1.8.3 That subject to adoption of .1 above and the approval by the Bid Adjudication Committee pursuant to successful negotiations, authority be granted to the Head: Real Estate to sign the relevant agreements and all documents necessary to effect transfer of the Municipal requirements.
- 1.8.4 That the City Manager records the reasons for any deviations and report it to the next meeting of Council and include it as a note to the annual financial statements in terms of Section 36(2) of the Supply Chain Management regulations.
- 1.8.5 That in the event of negotiations being unsuccessful, authority be granted to the Head: Real Estate to expropriate the requirements for the servitude of 132 kV Ottawa to Phoenix - North OHTL over properties.

**Vote No.: 37401.42945.30015.0000.HV140.0010; Price to be negotiated with the owners;  
FC No.: 361/CA0233**

## **ADOPTED.**

- 1.9 Request for Extension of Mandate Given to the City Manager as Per Council Decision Dated 28 September 2017 for Iqhaza Lethu Incremental Upgrading Partnership Project (20/6/1):  
(Page 402 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

Authority is sought to extend mandate given to the City Manager as per the Council decision dated 28 September 2017 for Iqhaza Lethu Incremental Upgrading Partnership Project, in respect of the extended timeframes for the following agreements (extensions which have no additional financial implications for the Municipality):

- Grant Contract between the Municipality, European Union (EU), and Project Preparation Trust (PPT) of KZN signed in December 2017 as contained in Annexure 1 of the report by the Head : Human Settlements dated 2022-02-14);
- Related Memorandum of Agreement between the Municipality and Project Preparation Trust (PPT) (as co-applicant and co-beneficiary of the EU grant) signed in February 2018;
- To ratify various addenda signed by the City Manager relating to the above-mentioned agreements which were necessitated in order for the Municipality to fulfil its contractual obligations in respect of the project and to ensure full and optimal utilization of the available EU grant funding.

As a way of background, in December 2017, eThekweni Municipality entered into Grant Contract with the EU and PPT in respect of IQhaza Lethu Incremental

Upgrading Partnership Initiative. The Project is co-funded by the EU, Municipality and the PPT as follows:

- EU (Euro 1 101 109 / R11 497 500 depending on exchange rate / 67%);
- eThekweni Municipality (R5 000 000 / 29%); and
- PPT (R749 836 / 4%).

The Project is implemented jointly by the eThekweni Human Settlements Unit and the PPT. The PPT is a party to the Grant Contract which specifies the PPT as the co-beneficiary of the EU grant, noting that the PPT was the co-applicant to the EU together with the Municipality, in response to an EU call for proposals which emphasized partnerships between Municipalities and Civil Society Organisations. The duration of the initial Grant Contract was 36 months (start date 22 December 2017, end date 21 December 2020).

The partnership with the PPT on the project was formalized through the signing of a Memorandum of Agreement (MOA) between the Municipality and the PPT in February 2018. The MOA describes the duration of the project as 3 years and stipulates that this may be extended by mutual agreement in writing in terms of the agreement. It was reported that due to delays in implementing the project, mainly due to the Covid-19 pandemic, social unrest in July 2021, and the elections during the period, the European Union has granted no-cost extensions to the Grant Contract. As such the following documents were concluded:

- a) Addendum 1 signed in November 2020 which extended the project duration to 43 months (end date of 22 July 2021);
- b) Addendum 2 signed in August 2021 which further extended the project duration to 47 months and 29 days (end date of 20 December 2021)
- c) Addendum 3 signed in December 2021 which extends the project duration to 51 months and 29 days (end date 19 April 2022).

The MOA between the eThekweni Municipality and the PPT has also been amended through two signed addenda and a third agreement is pending. These addenda are necessary to ensure alignment between the MOA and the overarching Grant Contract, including giving effect to no-cost time extensions and amendments to the breakdown of the budget and have no additional financial implications for the Municipality. All of these addenda were necessary in order to ensure that the Municipality is able to fulfil its contractual obligations, to ensure the successful delivery of the project, and to ensure full and optimal utilization of the available EU donor funding including avoiding a situation where donor funding would otherwise have had to be returned to the EU.

Delays with the recruitment of Project personnel in the short-term employ of the Municipality at the commencement of the project and with the procurement of infrastructure for pilot projects also had an impact.

It was reported that there are no additional financial implications for the Municipality. The addenda do not affect the overall cost of the project nor the Municipality's financial commitments. As indicated previously, the Municipality has received 90% of the grant funding from the EU with the final tranche of 10% due upon the successful closeout of the project and the final project. The Municipality has sufficient donor funding available to meet the project's requirements as per the EU-approved Project Budget.



With the Committee being in agreement,

COMMITTEE RECOMMENDS:

- 1.9.1 That authority be granted for the Acting City Manager to sign amendments or addendum to the tripartite grant contract with the European Union (EU), and the related bilateral Memorandum of Agreement (MOA) with the Project Preparation Trust (PPT), in respect of Iqhaza Lethu Incremental Upgrading Partnership Project, at no additional financial implications for the Municipality, hence no cost contract extension.
- 1.9.2 That the addendum already signed by the office of the City Manager in respect of the tripartite Grant Agreement with the European Union (EU) and the PPT (three signed addendum) and the bilateral MOA with the PPT (including signed addendum), be ratified.
- 1.9.3 That authority be granted for the Acting City Manager to enter into MOA with the PPT, the co-applicant and partner Non-Profit Organization, as per the conditions of the grant contracts between the eThekweni Municipality and the PPT with the EU, and on the same terms and conditions as the previous MOA entered into between the eThekweni Municipality and the PPT, in order to bring the bilateral agreement with PPT in line with the overarching grant contract, including in respect of timelines and the EU approved project budget.
- 1.9.4 That there being no financial implications for eThekweni Municipality, authority be granted for the Acting City Manager sign the MOA.

**ADOPTED.**

- 1.10 Closure of Public Open Space Portion 26 Erf 402 Zeekoe Vallei (21/7/5):  
(Page 406 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

With the Committee in agreement,

COMMITTEE RECOMMENDS:

- 1.10.1 That in terms of Section 212 of Ordinance 25 of 1974 Portion 26 of Erf 402 Zeekoe Vallei in extent 1.0980Ha designated as public open space, as depicted on the locality plan, be permanently closed.
- 1.10.2 That the closure be advertised via the Land Use Management application process, read in terms of Section 212 of Ordinance 25 of 1974 together with Section 28 (2) (e) of the eThekweni Municipality Planning and Land Use Management By-law 2016.
- 1.10.3 That in the event of objections being lodged to the proposed closure of the public open space designation over Portions 26 of Erf 402 Zeekoe Vallei in extent 1.0980Ha when it is advertised, the Planning and Land Use management By-Law process be followed to attend to these objections.
- 1.10.4 That authority be granted to the Head: Real Estate to sign all necessary documents to give effect to this decision.

**As some members were not in support of the recommendations; the matter was put to the vote. With 180 Councillors present, 162 Councillors ANC - 81, DA - 46, IFP - 14, ASA - 04, ABC - 02, ACC - 01, ACDP - 01, AIC -02, ADEC - 01, APF - 01, ATM - 01, AL JAMA-AH - 01, DLC - 01, JEP - 01, KZNI - 01, MF - 01, MOSA - 00, NFP - 01, PFP - 00, PRM - 01, TA- 00, UIM - 01 and VF Plus - 00) voted in favour; 00 Councillors voted against the matter and 18 Councillors (EFF - 18) abstained on the matter.**

**ADOPTED; by the majority vote.**

- 1.11 Request for Authority to Transfer Funds - Inanda Newtown C Sewer Reticulation and Collector Sewer (Ward 54) (23/2/1/3/5/1):  
(Page 427 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

With the Committee being in concurrence,

**COMMITTEE RECOMMENDS:**

- 1.11.1 That approval be granted for the transfer of R94 000.00 (Ninety-Four Thousand Rand), excl VAT, from Project No.: Y8768: Sea Outfalls Replacement (Wards 26 and 68) to Project No. Y8136: Inanda Newtown C Sewer Reticulation and Collector Sewer (Ward 54) in the 2021/2022 financial year.
- 1.11.2 That approval be granted for the transfer of R126 000.00 (One Hundred and Twenty Six Thousand Rand), excl VAT from Project No.: Y5580: Waterloo Bulk Sewer Transfer Scheme Registration of Sewer Servitude (Ward 102) to Project No.: Y8136: Inanda Newtown C Sewer Reticulation and Collector Sewer (Ward 54) in the 2021/2022 financial year.
- 1.11.3 That subject to the adoption of .1 and .2 above the Deputy City Manager: Treasury be granted authority to include in his adjustment budget report the transfer of R94 000.00 (Ninety-four Thousand Rand) excl VAT from project No Y8768 Sea Outfalls Replacement (Ward 26 & 68) to project No Y8136 Inanda Newtown C Sewer reticulation and collector sewer (Ward 54) in the 2021/2022 financial year.
- 1.11.4 That subject to adoption of .2 above the Deputy City Manager: Treasury be granted authority to include in his adjustment budget report the transfer of R126 000 (One Hundred and Twenty-Six thousand Rand) excl VAT from project No Y5580: Waterloo Bulk sewer transfer scheme registration of sewer servitude (102) to project No Y8136 Inanda Newtown C sewer reticulation and collector sewer (Ward 54) in the 2021/2022 financial year.
- 1.11.5 That Project No.: Y8136: R220 000.00 (Two Hundred and Twenty Thousand Rand), excl VAT be funded through savings from Project No.: Y8768: Sea Outfalls Replacement (Wards 26 and 68) : R94 000.00, excl VAT, and Project No Y5580: Waterloo Bulk Sewer Transfer Scheme - Registration of Sewer Servitude (Ward 102): R126 000.00 (One Hundred and Twenty-Six thousand Rand), excl VAT, in the 2021/2022 financial year.

**Vote Numbers:**

<b>63341.43780.91104.0000.Y8768.0010</b>	<b>R94 000.00</b>
<b>64120.43820.30015.0000.Y5580.W102</b>	<b>R126 000.00</b>
<b>FC No.:365/C314</b>	

## **ADOPTED.**

- 1.12 Proposed Granting of Rights to Use, Control or Manage Existing Lease Erf 11414, Erf 11415, Erf 1146 Situated on a Portion of the Remainder of Erf 1 Durban Proposed Erf A Durban Existing Lease Erf 1418 and Erf 11419 Situated on a Portion of the Remainder of Erf 1 Durban Proposed Erf B Durban (17/2/1/2/5):  
(Page 438 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

At the Support Committee level, the item was approved through a majority vote. With 31 Councillors present, 24 Councillors (ANC – 14, IFP - 2, EFF - 3, ABC - 1, ADEC - 1, PRM - 1, ACDP - 1 and ATM - 1) voted in support of the recommendations and 7 DA Councillors abstained.

With the Executive Committee being in agreement,

### **COMMITTEE RECOMMENDS:**

- 1.12.1 That the Municipal Council declares in terms of Section 14 of the Municipal Finance Management Act (MFMA) No 56, 2003, that:
- 1.12.1.1 That the existing leases Erf 11414, Erf 11415, Erf 11416 situated on a portion of the remainder of Erf 1 Durban (Proposed Erf [A] Durban and Existing leases Erf 11418 and Erf 11419 situated on a portion of the remainder of the remainder of Erf 1 Durban (proposed [B] Durban in extent 4400m<sup>2</sup> and 2783m<sup>2</sup> are not required to provide a minimum level of basic Municipal services and are considered to be a surplus to the requirements of the Municipality for the period of the proposed granting of rights to use, control or manage the said properties; and
- 1.12.1.2 The Municipality has considered fair market value of the assets, economic and community value to be received in exchange for the assets and the current market value of the properties being R430 000 000.00 (Four Hundred and Thirty Million Rand) and an assessed market rental of R3 403 158.75 (Three Million Four Hundred and Three Thousand One Hundred and Fifty Eight Rand Seventy Five Cent) per month has been considered.
- 1.12.2 That the Municipal Council approves in principle the granting of rights to use, control or manage the capital assets described as existing leases Erf 11414, 11415 and Erf 11416, situated on a Portion of Remainder of Erf 1 Durban (proposed Erf[A] Durban and existing leases Erf 11418 and 11419 situated on a Portion of the Remainder of Erf 1 Durban proposed Erf [B] Durban in extent 4400m<sup>2</sup> and 2783m<sup>2</sup>, as depicted on SJ Plan 4655/9 and SJ 4655/10 in terms of Regulation 34(1)(b) read with Regulation 36 and 41 of the Municipal Assets Transfer Regulation 2008 , and the approval to consider the following:
- 1.12.3.1 A long-term lease is proposed to be granted in respect of the capital assets;
- 1.12.3.2 That the properties described as existing leases Erf 11414, 11415 and 11416, situated on a Portion of the Remainder of Erf 1 Durban (proposed [A] Durban and existing leases Erf 11418 and 11419, situated on a Portion of Erf 1 Durban proposed [B] Durban in extent 4400m<sup>2</sup> and 2783m<sup>2</sup>, be leased by way of public tender taking into account the provisions of the SCM Policy with respect to the participation process, at a basic rental of R3 403 158.75 (Three Million Four Hundred and Three Thousand One Hundred and Fifty Eight Rand Seventy Five Cent) per month, escalating by 7%

per annum and, reviewable every five (5) years for a period of fifty (50) years with no rights of renewal.

- 1.12.3.3 That all costs incidental to the transaction shall be borne by the lessee and all the developmental plans must be submitted to the Local Authority.
- 1.12.3.4 That the rental be suspended for up to 3 three years from the date of registration of the lease to allow for the renovations and upgrade of the subject properties provided that the capital investment is above R250 Million, and should the developer not complete the development within a 3-year period, an application be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 1.12.4 That subject to the adoption of .1 to .3 above and the approval by the Bid Adjudication Committee, authority be granted to the City Manager to sign all documents necessary to conclude the required lease agreement.

### **WITHDRAWN.**

- 1.13 Request for Authority to Engage with Transnet Limited in Order to Enter into Memorandum Agreement for the Purpose of Jointly Constructing Infrastructure Required to Provide Safe Link Across Umgeni Road at the Durban Rail Station (25/4/22/2):  
(Page 470 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

The Executive Committee acknowledged the significance of rail service and the importance to effect improvements in this regard to achieve stakeholder benefit. In this regard, it was agreed to engage on broader issues involving rail services. As such the Office of the Mayor will facilitate strategic engagements between the Municipality and the Passenger Rail Agency of South Africa for this purpose.

On this basis,

### **COMMITTEE RECOMMENDS:**

- 1.13.1 That authority be granted to the Head: eThekweni Transport Authority to engage with Transnet Limited (Ltd) to structure a Memorandum of Agreement (MOA) to give effect to jointly construct infrastructure required to provide safe link across Umgeni Road at the Durban Rail Station, subject to consultation with the eThekweni Legal and Compliance Unit to ensure that the MOA is structured in a fair, balanced manner and accordingly protects all parties involved.
- 1.13.2 That subject to the approval of .1 above, authority be granted to the Head: EThekweni Transport Authority to submit the draft MOA with recommendations for approval once engagements with the Transnet Limited SOC (Ltd) have been concluded.

### **ADOPTED.**

- 1.14 Request for Approval for EtheKwini Transport Authority to Draft Memorandum of Agreement to be entered into between eThekweni Municipality and Department of Water & Sanitation as well as Ezemvelo KZN Wildlife, in consultation with Economic Development, Tourism & Environmental Affairs (EDTEA) in terms

of Piesangs River Wetland Offsets Linked to Go! Durban Integrated Public Transport Network Program (26/3/1/2):  
(Page 476 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

With the Committee being in concurrence,

COMMITTEE RECOMMENDS:

- 1.14.1 That Council notes that the Piesang River Floodplain Wetland Rehabilitation project is implicit to Legal wetland offset banking obligations required to compensate for the wetland areas directly impacted by implementation of the Go! Durban Integrated Public Transport Network (IPTN) infrastructure development.
- 1.14.2 That subject to .1 above, authority be granted to the Head: EThekweni Transport Authority, in consultation with the Legal and Compliance, to negotiate and draft a Memorandum of Agreement (MOA) on behalf of the eThekweni Municipality, and to be entered into with the Department of Water and Sanitation, Ezemvelo KZN Wildlife, in consultation with the Economic Development, Tourism and Environment Affairs (EDTEA) for purposes of developing and monitoring the implementation of the wetland offset plan in line with the conditions of the Environmental Authorization (EA) granted for the respective IPTN Corridor Development.
- 1.14.3 That authority be granted for the Acting City Manager to enter into and sign the MOA with the Department of Water and Sanitation and Ezemvelo KZN Wildlife in terms of the wetland offset plan.

**ADOPTED.**

- 1.15 Request for Authority to Transfer Funds Within the Electricity Unit Budget in the 2021/2022 Financial Year (7/1/3/2) & (27/2/1/3/R):  
(Page 528 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

The Committee was advised that savings have been identified in the approved HV Lines budget for the Electricity Unit in the 2021/2022 to augment the budget in the HV Cables Branch. The expenditure on the maintenance of HV cables will be higher in the 2021/2022 financial year than the amount that was left after budget cuts were made during the Mid-Term review. It was noted that savings have been identified in the maintenance of HV lines due to delay in implementing some projects and cannot be completed before 30 June 2022.

With the Committee being in concurrence,

COMMITTEE RECOMMENDS:

- 1.15.1 That approval be granted for the reallocation and transfer of funds in the amount of R3 370 286.50 (Three Million Three Hundred and Seventy Thousand Two Hundred and Eighty Six Rand Fifty Cent) from savings identified from Project No.: 92071 – HV Lines to Project No.: 88084 – Maintenance and Repairs of High Voltage (HV) underground cables, as detailed in the report by the Head: Electricity dated 2022-03-15.
- 1.15.2 That subject to the approval of .1 above, authority be granted to the Deputy City Manager: Finance to include in the adjustment budget report the transfer of funds from the projects where savings have been identified to the HV cables projects where funding is required.

Vote No.: 37431.11430.1110.0000.92071.0010 R3 370 286.50  
FC No.: 79/2939

## **ADOPTED.**

- 1.16 Ratification of Typo Associated with the Capital Budget Adjustment:  
(Page 536 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

It was advised that on the 28 February 2022, Council approved the Capital Budget Adjustment. In the document bundle that were supplied to the Council to support the Capital Budget Adjustment, there was a supplementary debit and credit report. It has identified that the supplementary debit and credit report included some typo errors which were identified in the Sanitation business and the Cleansing and Solid Waste business.

The submission before Council then intends seeking authority to rectify the error and details are provided in the table below.

With the Committee in agreement,

### **COMMITTEE RECOMMENDS:**

- 1.16.1 That Council notes the typo errors in the supplementary Debit and Credit report that accompanied the main Capital Budget Adjustment Report approved by Council in February 2022.
- 1.16.2 That approval be granted for the corrections to the Supplementary Debit and Credit Report as indicated in the table below:

Project Description	Account No.	Supplementary Debit & Credit Report
	Project	Correction
WWTW Functional Upgrades	Y9064	R24 455 894
Camera for WWTW	PC8800	R15 000
Transport Asset (Trucks)	PC8900	R119 3000 000
Mariann hills: Stormwater and Envir	WMA18F	R42 041

## **ADOPTED.**

- 1.17 Proposed Lease on Proposed Portion SA 739 on Erf 2587 KwaMakhutha A by Public Tender Plan No SJ 4560/10 Extent 3,275Ha (17/2/1/3):  
(Page 541 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

With the Committee being in concurrence,

### **COMMITTEE RECOMMENDS:**

- 1.17.1 That the Municipal Council declares in terms of section 14 of the Municipal Finance Management Act No 56, 2003, that:
- 1.17.1.1 The described Proposed Portion SA 739 on Erf 2587 KwaMakhutha A in extent 3,2755Ha is not required to provide a minimum level of basic Municipal services and is considered to be a surplus to requirements of the Municipality for the period that the proposed granting of the rights to use, control or manage.

- 1.17.1.2 The Municipality has considered fair market value of the asset, economic and community value to be received in exchange for the asset, and the current market value of the property is R8 200 000.00 (Eight Million Two Hundred Thousand Rand) and an assessed market rental of R574 000 (Five Hundred and Seventy Four Thousand Rand) per annum, R47 833.44 (Forty Seven Thousand Eight Hundred and Thirty Three Rand Forty-Four Cent) per month has been considered.
- 1.17.2 That the Municipal Council approves the granting of rights to use control or manage the capital asset described as Proposed Portion SA on Erf 2587 KwaMakhutha in extent 3,2755Ha, as depicted on Plan No. SJ 4560/10 in terms of Regulation 34(1)(b) read with Regulation 36 and 41 of the Municipal Asset Transfer Regulation 2008, the approval to consider the following:
- 1.17.2.1 A long-term right is proposed to be granted in respect of the capital asset;
- 1.17.2.2 The rental be assessed on open market value;
- 1.17.2.3 The property described as proposed portion SA 739 on erf 2587 KwaMakhutha A in extent of 3,2755Ha be leased by way of public tender in accordance with the provisions of the Preferential Procurement Policy Framework which supports Radical Economic Transformation Framework, a basic rental of R574 000 per annum, R47 833.33,per month) escalating by 6% per annum and, reviewable every 5 years for a period of 45 years;
- 1.17.2.4 All costs incidental to be transactions shall be borne by the lessee and all the developmental plans must be submitted to the local authority;
- 1.17.2.5 That the rental be suspended for up to three (3) years from the date of registration of the lease to allow for the development of the property and should the developer not complete the development within the three-year period, an application be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance in accordance with suitable terms and conditions as recommended by the Head: Real Estate; and
- 1.17.3 That in terms of Section 212 of Ordinance 25 of 1974, the closure of the public open space area over proposed Portion SA 739 on Erf 2587 KwaMakhutha A, as per Hand Plan No. SJ 4560/10, be approved.
- 1.17.4 That this closure be advertised via Land Use Management application process, read together with Section 28(2)(1) of the eThekweni Municipality Planning and Land Use Management By-law 2016.
- 1.17.5 That in the event of objections being lodged to the proposed closure of Portion SA 739 on Erf 2587 KwaMakhutha A when it is advertised, the Planning and Land Use Management By-law process be followed to attend to these objections.
- 1.17.6 That subject to the adoption of .1 to .2.5 above and the approval by the Bid Adjudication Committee, the Head: Real Estate be granted authority to sign all documents necessary to conclude the required lease agreement.

### **ADOPTED.**

- 1.18 Granting Rights to Use, Control or Manage Properties Described as Proposed SA 909 on Part of Remainder of Erf 1258 KwaMashu E and Part of Remainder of Erf 1628 KwaMashu F, in terms of Transfer Process of Chapter 3 of the Municipal Asset Transfer Regulations (17/2/1/2/5):  
(Page 563: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

With the Committee being in concurrence,

**COMMITTEE RECOMMENDS:**

- 1.18.1 Council declares that the properties described as Proposed SA 909 Part of Remainder of Erf 1258 Kwamashu E and Part of Remainder of Erf 1628 Kwamashu F subject to final survey as depicted on Plan No.: SJ4722/3 are not needed for the provision of a minimum level of basic Municipal services and the properties represent a surplus to the requirements of the Municipality.
- 1.18.2 Council notes the result of the due diligence review in terms of Regulation 32 of the Municipal Assets Transfer Regulations and approves the granting of rights to use, control or manage the aforementioned properties for a period of 25 (Twenty-Five) years with an option to renew for a further 10 (Ten) years.
- 1.18.3 That authority be granted to the Head: Real Estate to conclude the relevant agreement and associated documents with Intersite Asset Investments (SOC) Ltd, in respect of properties described as Proposed SA 909 F Part of Remainder of Erf 1258 KwaMashu E and Part of Remainder of Erf 1628 Kwamashu F subject to final survey as depicted on Plan No. SJ4722/3 in terms of Regulation 33(3)(c)(ii) and Regulation 20(1)(f) of the Municipal Asset Transfer Regulation, read with Section 14 (6) of the Local Government: Municipal Finance Management, 2003.

**ADOPTED.**

- 1.19 GO! Durban Cycling Academy and Active Mobility Program Additional Grant Funding Secured by the Department of Forestry Fisheries & Environment from KfW German Development Bank and Extension of Memorandum of Agreement Period with Green Corridors NPC (7/4/1):  
(Page 583: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

The Executive Committee supported the item as it related to grant funding. Whilst acknowledging the programme associated with this grant funding, a comment was made that EThekweni Transport Authority should not lose sight of its core function, that of managing effectiveness in the provision of public transport service and related matters.

With the Committee being in concurrence,

**COMMITTEE RECOMMENDS:**

- 1.19.1 That Council notes provision of additional grant funding in the amount of R8 801 647.36 (Eight Million Eight Hundred and One Thousand Six Hundred and Forty Seven Rand and Thirty Six Cent), excluding VAT), secured by the Department of Forestry Fisheries and Environment (DFFE) from KfW German Development Bank for the procurement of assets (cycling equipment) as well as to introduce two (2) new active mobility advocacy efforts development of skateboard parks and procurement of stadium for cycling academies all relevant to the advocacy activations for the Go! Durban Cycling Academy Program.
- 1.19.2 That subject to the approval of .1 above, authority be granted to the Head: eThekweni Transport Authority, in consultation with the Legal and Compliance Department to draft the following agreements on behalf of eThekweni Municipality:



- 1.19.2.1 The third addendum to the Memorandum of Understanding (MOU) with (DFFE) to allow the EThekweni Transport Authority to facilitate and manage, through Green Corridors Non-Profit Company (NPC - implementing agent) the utilization of additional grant funding secured from the KfW German Development Bank;
- 1.19.2.2 The second addendum to the MOA with Green Corridors NPC for:
  - 1.19.2.2.1 The procurement of assets (cycling) equipment) as well as to introduce two new active mobility advocacy efforts, development of skateboards parks and procurement of stadium style seating for cycling academies all relevant to the active mobility activations for Go! Durban Academy Program implemented in line with the additional grant funding from KfW to be paid directly to Green Corridors based on ratification and recommendation from the DFFE and the ETA that such invoices as may be made are compliant with the relevant agreements.
  - 1.19.2.2.2 The extension of the current MOA termination date by nine (9) months to March 2023 to align with the revised project completion date of March as granted by the Donor Partner, namely, KfW for implementation of activities linked to the additional financial support relevant to the active mobility advocacy activations for the Go! Durban Academy Programme.

### **ADOPTED.**

- 1.20 Motivation for Use of Urban Settlement Development Grant for Earthworks and Construction of Retaining Walls at Woodyglen Phase 1 Housing Project:  
(Page L6: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

The Committee considered report advising of challenges experienced on the Woodyglen Phase 1 housing project that is on the current financial year business plan. A request was made to utilise the Urban Settlement Development Grant (USDG) funding for earthwork and construction of retaining walls to protect already constructed dwellings that have a potential to be affected by erosion, and to avoid cracking of the top-structure will enable warranty from the National Home Builders Registration Council (NHBRC) to be in place. It was reported the Woodyglen Phase 1 Housing Project Trenches 1 and 2 were approved for the total yield of 866 sites and, to date, an amount of R107 992 148.48 has been approved which included trenches 1, 2 and 3 alignments.

The construction commenced during the 2016/2017 financial year for the construction of 702 units. Three contractors were appointed to undertake this project and the commencement date on site was 01 July 2016 with the project duration of 36 months ending 30 June 2019. Approximately 702 units have been constructed, as per the original award. The retaining walls were not included on the original contract. Upon inspection by the Project Engineer, Building Advisor and Building Inspector from the NHBRC, it was discovered that there are embankment failures that will subsequently undermine foundations and cause cracks to the top structure and, the NHBRC will not issue the necessary completion certificates under this circumstance. It should be noted that the project experienced severe delays as a result of insufficient budget allocated.

It was reported that there have been engagements with the Provincial Department of Human Settlements (DoHS) in terms of requesting additional funding for such conditions which at this stage still remain unresolved. Hence the Unit is requesting

Council to amend the original estimates, to include the extent of additional scope requirement in the 2021/2022 and 2022/2023 Business Plans.

At the Executive Committee level, The DA abstained on this matter as they were of the view that it appears the housing projects are not well-planned, with this becoming evident as discrepancies are identified at the completion stage of the projects and thus a request for additional funding. That this was becoming a norm and represents poor project planning by the relevant officials.

The other Members supported the matter to avoid future challenges given as well the risk posed by the recent floods to houses. Thereafter, the issue of public outcry was raised regarding private property not being considered in the retaining wall project. It was then agreed that the Human Settlements and Infrastructure Committee deliberates on this matter with a view to coming up with a concrete solution after analyzing the role of Municipality on matters of this nature and thereafter recommend accordingly.

With the majority in support of the item,

**COMMITTEE RECOMMENDS:**

- 1.20.1 That challenges being experienced on the Woodyglen Phase 1 Housing Project regarding embarkment failures that will subsequently undermine foundations and cause cracks to the top structures, be noted.
- 1.20.2 That subject to .1 above, approval be granted to utilize the USDG in the amount of R6 593 140.56 (Six Million Five Hundred and Ninety Three Thousand One Hundred and Forty Rand Fifty Six Cent), excluding VAT, for the purpose of earthworks and construction of retaining walls under Woodyglen Phase 1 Housing Project.
- 1.20.3 That subject to the approval of .2 above Council approves the allocation of funding to the project referred to.

**As some members were not in support of the recommendations; the matter was put to the vote. With 183 Councillors present, 135 Councillors ANC - 83, EFF - 18, IFP - 13, ASA - 04, ABC - 02, ACC - 01, ACDP - 01, AIC -02, ADEC - 01, APF - 00, ATM - 01, AL JAMA-AH - 01, DLC - 00, JEP - 01, KZNI - 01, MF - 01, MOSA - 00, NFP - 01, PFP - 01, PRM - 01, TA- 00, UIM - 01 and VF Plus - 00) voted in favour; 00 Councillors voted against the matter and 48 Councillors (DA - 48) abstained on the matter.**

**ADOPTED; by the majority vote.**

- 1.21 Motivation for Additional Funding for Professional Service Contract in Bhambayi Phase 1 Extension (1H-39372):  
(Page L7: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

Members are requested to note the reasons for proposed extension of Contract 1H-39372 for the Bhambayi Phase 1 Extension Housing Project in terms of Section 116(3) of the Municipal Finance Management Act, 2003. It was reported that

on 11 February 2019, the Bid Adjudication Committee approved the award of Contract 1H-39372 in the sum of R3 726 617.55, including VAT. This was to obtain planning approval and detailed planning at Bhambayi Phase 1 Extension Housing Project as approved by the Provincial Department of Human Settlements:

- The Professional Team has obtained planning approval on the first phase for 474 sites at Pat Marshall for development of low-income housing.
- The professional team has completed the engineering design for services. The department has commenced with the tender process for construction of services.
- The professional team is required for site supervision of construction of services at Bhambayi Phase 1 Extension, first phase, (Pat Marshall).

It was highlighted that the Bid Adjudication Committee approved the award of contract 1H-39372 for the contract sum of R3 726 617.55 (inclusive VAT) for detail planning for construction of civil infrastructure and services at Bhambayi Phase 1 Extension. The appointment expired on 13 March 2022 and there is need for contract to be extended for 36 months with effect from 14 March 2022 to 13 March 2025.

With the Committee in agreement,

**COMMITTEE RECOMMENDS:**

- 1.21.1 That the reasons for the amendment to the contract 1H-39372 for the construction of engineering services at Bhambayi Phase 1 Extension Housing Project within the Municipality in terms of the Municipal Finance Management Act, be noted.
- 1.21.2 That it be noted that Section 116(3) was advertised in the relevant print media for the prescribed period and there were no objections received.

Funding to be obtained from the Upgrade of Services Development Grant (USDG).

Vote	2021/2022	2022/2023	2023/2024
P5054A	3,000 000.00	4,000 000.00	4,407 497.00

**ADOPTED.**

- 1.22 Motivation to Request Additional Contract Authority for Construction of Civil Infrastructure for Low-Cost Housing Project at Kennedy (Barton Place) 3V 39571:  
(Page L8: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

This report was submitted to the Committee for noting of proposed major amendments to contracts according to the Municipal Finance Management Act (MFMA) Section 116(3). The existing contracts for which proposed amendments are sought for contract 3V-39571 for Civil Engineering Services to include increased cost to the contract value for the Kennedy Road (Barton Place) Housing Project and to notify the Committee of the outcome of the public participation process. It was advised that on 30 April 2019 the Bid Adjudication Committee approved the award of contract 3V-39571 for the contract sum of R18 077 162.62 (inclusive VAT) and authorized contingency of R2 711 574.39 (inclusive VAT) and escalation of R4 530 171.05 (inclusive of VAT) with total contract sum of R25 318 908,06 (inclusive of VAT).

The contract duration was 24 months. The site was handed over to the contractor and the contract commenced work on 1 September 2019. The practical completion date was 30 August 2021. The new practical completion date is 30 August 2022. The Kennedy Road informal settlement site is located adjacent to the Bisasar Road Municipal Landfill site. During the prefeasibility studies it was identified by the Housing Unit as potentially providing land to meet some of the communities housing needs. The close proximity of these areas to the Bisasar Road landfill has resulted in reservations about the suitability of the land for formal housing development.

The project could not proceed without a relocation programme for approximately 2000 families. Kennedy relocation done to Quarry Heights during early 2000. There was re-invasion and hence the need for housing. The need for housing and suitability studies commenced in 2006. The history behind this need to upgrade Kennedy Road Informal settlements does makes reference to some relocations to other Cities Greenfields projects over the years like Hammonds Farm, Welbedacht West, and Cornubia but for some reason people would leave their houses and come back to the informal settlements.

Therefore, it is considered reasonable to secure land in proximity to the project precinct. As a result, three portions of land were identified as part of the Kennedy Road Informal Settlement Upgrading Programme, namely, Phase 1-Dodoma Avenue, Phase 2- Barton Place and Phase 3 is Kennedy Road. The planning of the programme commenced in 2012 by Housing Engineering and Architecture Department for alternative building systems in order to fastrack housing delivery at Kennedy Road.

Confirmation of bulk water was confirmed on 20/11/2012 and sanitation on 30/11/2012. Letters are issued after a process called Housing Working Group Forum chaired by the Public Sector Housing, a division of the Planning and Development that assist in ensuring that all housing projects do have support and approval that they should proceed and connect existing services. A request for proposal for alternate housing and servicing technologies was advertised on 1 March 2013 to accelerate housing delivery in various projects, including Kennedy Road Informal Settlements upgrade that includes Barton Place and Dodoma.

Initially it was proposed that the pilot should be alternative housing technology for 3 storeys. The top structure architects had to adapt the new housing technology design with the planning layout. Originally there was an intention to implement a turnkey appointment for services and top structure. However, the concept was changed to two-storey units due to affordability, acceptability and recommendations by the Engineer and separate appointments were issued for services and top structure at Barton Place.

The challenges were realized in September 2019 when the contractor established on site. There were stoppages as a result of Covid-19 regulations, social unrest and business forum interferences, labour issues and disputes between Wards on ownership of the project and allocation. The contract commenced work on 1 September 2019. The contract expired on 30 April 2022. Due to delays in commencement and work stoppages the contract period is required to be extended by 6 months with effect from 1 April 2022.

With the Committee in agreement,

**COMMITTEE RECOMMENDS:**

- 1.22.1 That the proposed major amendments to contract for low-cost housing project at Kennedy, according to the Municipal Finance Management Act (MFMA) Section 116 (3), with the existing contract 3V-39571 for civil engineering services to include increased cost to the contract value for the Kennedy Road (Barton Place) Housing Projects, as per funding details in the table below, be noted.
- 1.22.2 That it be noted that Section 116(3) was advertised in the relevant print media for the prescribed period and there were no objections received.

**Financial Implications:**

Funding is obtained from the Urban Settlements Development Grant (USDG) for services as budgeted on the current financial year and outer years. There is 26% additional work not included in original tender.

Current Contract Authority (Excl. VAT)	Expenditure	Balance
R22,016,441.79	R18,573,504.42	R3,442,937.37

**Amended Required Contract Authority:**

	Amount	VAT	Total
Existing Contract Authority	22,016,441.79	3,302,466.27	25,318,908.06
Additional Contract Value Required	15,808,771.52	2,371,315.73	18,180,087.25
<b>Revised Contract Value</b>	<b>37,825,213.31</b>	<b>5,673,782.00</b>	<b>43,498,995.31</b>

<b>USDG Vote</b>	<b>2022/2023</b>
<b>P5268AZ1</b>	<b>15,808,771.52</b>

As some members were not in support of the recommendations; the matter was put to the vote. With 181 Councillors present, 135 Councillors ANC - 83, EFF - 18, IFP - 11, ASA - 04, ABC - 02, ACC - 01, ACDP - 01, AIC -02, ADEC - 01, APF - 00, ATM - 01, AL JAMA-AH - 01, DLC - 01, JEP - 01, KZNI - 01, MF - 01, MOSA - 00, NFP - 01, PFP - 01, PRM - 01, TA- 00, UIM - 01 and VF Plus - 00) voted in favour; 00 Councillors voted against the matter and 48 Councillors (DA - 48) abstained on the matter.

**NOTED, by the majority vote.**

- 1.23 Release of Certain Land Parcels for the Development of Temporal Residential Units within Various Areas Affected by Storm Disaster within eThekweni Municipality:  
(Page L9: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

Authority is sought to release various land parcels for development of temporal residential accommodation by the KwaZulu-Natal Department of Human Settlements for the flood victims. The eThekweni Municipal area has been hit hard by the heavy rains of April 2022. Several homes were damaged or destroyed, critical infrastructure such as roads, transportation and electrical systems were also impacted by the floods.

The floods resulted in at least 435 deaths caused by collapsed buildings, mudslides and sinkholes within various regions of the Province of KwaZulu-Natal. Various households were washed away in the informal settlements within various regions

of the eThekweni Municipality thus leaving several families homeless. The families affected have sought refuge in the nearby Community Halls, Schools and Churches which is on a temporary basis. In an effort to provide relief to the displaced families the eThekweni Municipality has identified various vacant land parcels to be made available for the development of temporal residential accommodation.

The KwaZulu-Natal Department of Human Settlements has committed to build temporal residential units in a form of a transit camp. Furthermore, the department has appointed a team of service providers to commence with studies to determine the suitability of the subject land parcels and subsequently construct the transit camp upon favourable outcome of such studies. The servicing and maintenance of these facilities will be borne by the KwaZulu-Natal Department of Human Settlements. The identified land parcels belong to eThekweni Municipality; therefore, the department requires some form of tenure rights which will enable the department to utilise the land for its purposes.

In order to safeguard the interests of the Municipality and avoid any future disputes and any potential risks associated with the responsibility of servicing and maintaining the proposed transit camps, it is proposed that the identified land parcels be transferred to the KwaZulu-Natal Department of Human Settlements free from any consideration.

During consideration of the matter by the Executive Committee, the DA (03) abstained on the matter and requested to be furnished with a list of land parcels in question. The other Parties supported the matter, and a further recommendation was made that initiative continues to secure buildings which could be utilised for decanting purposes. This view was supported and with the attention being drawn to four (04) buildings already identified and with the engagements to ensue with the relevant Provincial Government Department regarding the release of the buildings.

Accordingly, by the majority support,

#### COMMITTEE RECOMMENDS:

- 1.23.1 That authority be granted for the Deputy City Manager: Human Settlements, Engineering and Transport, to permit the KwaZulu-Natal Department of Human Settlement to undertake various studies on the land parcels identified to ascertain their development potential for the construction of temporal transit camps to accommodate the floods victims, and a list of land parcels identified is attached herein.
- 1.23.2 That subject to the adoption .1 above authority be granted for the Deputy City Manager: Human Settlements, Engineering and Transport to transfer the land parcels identified to the KwaZulu-Natal Department of Human Settlement, free from any consideration, in terms of Section 14(6) of the Municipal Land Disposal Policy and, in conjunction with Regulation 20(1)(d) of the Municipal Asset Transfer Regulations.
- 1.23.3 That subject to the adoption .2 above and pursuant to successful negotiations, authority be granted for the Deputy City Manager: Human Settlements, Engineering and Transport to sign all documents necessary to effect the transfer of the properties earmarked.

#### **Financial implication:**

All cost associated with the studies to be undertaken and transfer fees will be borne by the KwaZulu-Natal Department of Human Settlements.

**As some members were not in support of the recommendations; the matter was put to the vote. With 181 Councillors present, 166 Councillors ANC - 80, DA - 48, EFF - 18, ASA - 04, ABC - 02, ACC - 01, ACDP - 01, AIC -02, ADEC - 01, APF - 00, ATM - 01, AL JAMA-AH - 01, DLC - 00, JEP - 01, KZNI - 01, MF - 01, MOSA - 00, NFP - 01, PFP - 01, PRM - 01, TA- 00, UIM - 01 and VF Plus - 00) voted in favour; 15 Councillors (IFP -15) voted against the matter and 00 Councillors abstained on the matter.**

**ADOPTED; by a majority vote.**

1.24

1H-14749 (EX 1H-5353): Request to Extend Professional Services Contract for the Major Amendment of Scope for Cornubia Phase 2A in Terms of Section 116(3) of the MFMA:

(Page L10 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

Authority is sought for Council to note proposed major amendments to contract according to the Municipal Finance Management Act (MFMA) Section 116(3). The existing contract 1H-14749 (ex 1H-15353) for the Cornubia Phase 2A Housing Project – Town Planning and Civil Infrastructure Design to be amended to include increased cost to the contract value, and to extend the contract for a further 36 months from 26 August 2022 to 25 August 2025 as well as to notify the Committee of the outcome of the public participation process.

The re-design of the Cornubia Boulevard was introduced long after the appointment of current professional team, who had already fully designed and obtained SPLUMA approval in Cornubia Ph 2A-South with only BNG houses as per the approved Cornubia Framework Plan. The need to integrate the Cornubia Boulevard precinct and Ph 2A, with the introduction of affordable and social housing typologies into the layout of Cornubia Ph 2A-South has resulted in additional costs in respect of redesign and non-recoverable time lost in producing the town planning layout, SPLUMA approval and detailed civil engineering design.

The identified geotechnical challenges resulted in the need to submit two, not one, SPLUMA applications (North and South portions) - which was unforeseen at the time of tender. In addition, the already approved Ph 2A-South SPLUMA, requires major amendment to incorporate the densified portion along the Cornubia Boulevard. The team had already commenced with the town planning layout for Cornubia Ph 2A-North based on the extensive geotechnical site investigations and approved Cornubia Framework Plan, which did not previously include the need to integrate with the Cornubia Boulevard Precinct and had achieved 100% preliminary.

The impact of the Covid-19 related lockdowns affected momentum and delayed planning and civil infrastructure design processes. Under the existing financial authority an amount of R4 689 933.65 was spent on planning, 60% of which has become abortive costs due to the change of scope. An amount of R1 547 678.12 was re-appropriated for redesign costs in order to implement planning activities without any additional delays to the planning process, and a balance of R2 760 000-00, excluding VAT, is available for construction monitoring.

In order to bring the project to final completion, the line department is compelled to seek Council approval to invoke Section 116(3) of the Municipal Finance Management Act, 2003 as this constitutes a change of scope due to design changes affecting the densification strategy, integration and the functionality of the deliverables

to meet the demand of the BRT-C9 Corridor, Bus terminus and adjacent private sector affordable housing developments.

The extension in costs shall ensure that the gains made thus far shall not be lost by way of retaining the same service providers, inter alia, infused professional team with all other stakeholders and familiarity of the challenges and processes moving forward.

With the Committee being in concurrence,

**COMMITTEE RECOMMENDS:**

- 1.24.1 That Council notes the proposed major amendments to contract 14749 (ex 1H-15353) for the Cornubia Phase 2A Housing Project - Town Planning and Civil Infrastructure, to include increased cost to the contract value, and to extend the contract for a further 36 months from 26 August 2022 to 25 August 2023, which extension is in line with the requirements of Section 16(3) of the Municipal Finance Management Act, 2003.
- 1.24.2 That Council notes that the public notice was issued in terms of Section 116(3) of the MFMA for the proposed amendment to the contract and there were no comments or objections received in this regard.

**Financial Implication:**

Requested extension to existing financial authority and time extension:

Tender No	Additional Authority	Time extension cost	VAT	Total Extension incl VAT	Total Value of appointment Incl VAT	%
						Extensions
1H-14749/ 1H-15353	Town Planners and Civil Engineers	R5,009,772.42	R751,238.28	R5 518 89,54	16,010,066.29	56,21%

The increase requested is made up as follows:

DESCRIPTION	COST TO COMPLETION
Town Planner/Urban Designer (Team Leader)	688 294,52
Civil Engineer	240 903,08
Land & Topo Surveyor	200 000,00
Engagement of Cornubia Master Plan/Framework planning teams	397 125,00
Project Management Liaison	300 000,00
Civil Engineer : Design of bulk services	389 812,51
Geotechnical Engineer	750 000,00
Project Management Liaison	100 000,00
Disbursements (plan and document printing)	100 000,00
Civil Engineer: Design of internal services and structural elements of top structures	359 490,04
Geotechnical Engineer	750 000,00
Town Planner/Urban Designer (Team Leader)	634 147,26
Project Management Liaison	100 000,00
<b>SUB TOTAL EXCL. VAT</b>	<b>5 009 772,42</b>



## **ADOPTED.**

1.25

### Acquisition of Erven Strategic Land for Human Settlements Purposes:

(Page L11 : Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

Authority is sought for the Deputy City Manager: Human Settlements, Engineering and Transport to acquire strategic land parcels listed identified as suitable for housing development to facilitate housing delivery and improve living conditions of the people. The challenges faced by the City is to eradicate more than 40 years of housing backlog and its focus is to find suitable and well-located land to deliver houses and eradicate the informal settlements and land invasion. To address the current challenges of informal settlements upgrade and land invasion, the Human Settlements Unit has identified a number of strategic land parcels in order to implement various housing projects.

The land is acquired for all Human Settlements Programmes including the following:

- Informal Settlement Upgrade:

The City has 594 informal settlements comprising 316 159 households which are spread across the jurisdiction of eThekweni Municipality. At times the City is precluded from providing infrastructural services on privately owned land. The settling pattern of the informal settlements as is not informed by any planning principles gives rise to several informal structures that require relocation during the upgrade period of the projects. Some structures are built over floodplains areas and services dangerous areas which subject them to danger. Therefore, the acquisition of these land parcels is necessary in order to relocate the informal settlements for upgrade purposes.

- Eradication of Transit Camps:

Currently, there is a total of 45 transit camps comprising 8 235 households which are located in various regions of the eThekweni Municipality. Some of the Transit camp facilities are erected on either privately owned land or land which is not suitable for development of a viable housing project.

These accommodations were made available to relocate people who were in the way of services and 2010 upgrade of stadiums and this was supposed to be for a shorter period. The difficulty in finding land suitable to develop for these families has been a challenge given that some have their livelihood settled around where they are staying and do not want to be relocated to far projects.

The conditions in which these families that are living in this transit camp facility remain inhabitable as much as there are maintenance work done to them hence final relocating or eradication plan is underway. In making this a success land parcels are required to be secured in order to ensure all are linked to land to eradicate them.

- Court Orders (Evictions)

For every person evicted being whether an invader or person renting, the City is required to provide an alternative accommodation when they are evicted. This is the requirement in terms of the Prevention of Illegal Evictions from and Unlawful Occupation of land Act No. 19 of 1998 (Pie Act), which places the responsibility on local authorities. Currently, the number of households to be assisted in terms of various Court Orders is 3 000 and still counting. The City

cannot fail to assist the evicted people as case law clearly states that in terms of various Court Orders the City is obligated to assist them (there are various Constitutional Court Cases).

- Eradication of Backyard Dwellers in Former Townships

Backyard dwellers is in two categories of people, and these being extended families as the years goes by and those that are renting from the owners. There is a backlog of approximately 100 000 dwellers and these extended families have been voicing their housing needs and putting pressure to government that they should be considered as well in the provision of housing. Land acquisition for this purpose is therefore required for the planning of projects that will decant some of these families.

- Allocation of Service Sites to Qualifying Beneficiaries.

In order to address the housing delivery backlog, the City will embark on the allocation of serviced residential sites to the qualifying beneficiaries who can afford to develop their own houses. This would decrease the backlog in informal settlements and backyard dwellers.

At the Executive Committee level, the DA requested to be furnished with a list of land parcels under consideration.

With the Committee being in concurrence with recommendations,

**COMMITTEE RECOMMENDS:**

- 1.25.1 That authority be granted for the Deputy City Manager: Human Settlements, Engineering and Transport to negotiate for the acquisition or expropriation of the properties as per Annexure “A” attached herein, subject to positive pre-screening and feasibilities.
- 1.25.2 That subject to the adoption of .1 above, authority be granted for the Deputy City Manager: Human Settlements, Engineering and Transport to acquire the properties as per Annexure “A” via donation, private treaty, or expropriation if necessary, following the appropriate procurement process as prescribed by the relevant legislation, including the Municipal Supply Chain Management Policy, if applicable.
- 1.25.3 That subject to adoption of .2 above and pursuant to successful negotiations, authority be granted for the Deputy City Manager: Human Settlements, Engineering and Transport to sign all the documents necessary to effect transfer of the properties, as per Annexure “A” attached herein.
- 1.25.4 That in the event that expropriation be deemed necessary, authority be granted for the Deputy City Manager: Human Settlements, Engineering and Transport to proceed with the expropriation of the properties earmarked, in terms of Section 9 (3) (a) (ii) of the Housing Act No. 107 of 1997, subject to the consent of the MEC for Human Settlements being sought for the expropriation and/or required consent, in terms of Section 190 of the Local Authorities Ordinance.
- 1.25.5 That subject to the adoption of .4 above, authority be granted for the Deputy City Manager: Human Settlements, Engineering and Transport to conclude the compensation agreements and sign all necessary documents to effect registration of the properties as per Annexure A in favour of the Municipality.

## **ADOPTED.**

- 1.26 Public Partnership in Respect of Social Housing on Remainder of Erf 1068 Sea View (21/8/3):  
(Page 187: Human Settlements and Infrastructure Committee - Agenda 2022-03-11)

Members were advised that this item was considered by the Committee at its meeting held on 11 March 2022 and thereafter the recommendations were submitted to the Executive Committee and Council, respectively in March 2022. During the consideration of the report at level of Council meeting held in March 2022, it was realized that the amount was captured incorrectly as R15 000.00 (Fifteen Thousand Rand) instead of R15 000 000.00 (Fifteen Million Rand). On that basis, a decision was taken for a reference back to rectify the amount required.

At its meeting of the Human Settlements and Infrastructure Committee held on 3 May 2022, the item was raised under matters arising from the Minutes of the meeting held 2022-03-11, the above item was considered and confirmed that the amount required for this was R15 000 000.00 (Fifteen Million Rand). It was agreed that this item be re-submitted to the Executive Committee and Council with a view to obtaining Council decision.

With the Committee being in concurrence,

### **COMMITTEE RECOMMENDS:**

- 1.26.1 That the Municipal Council gives authority to the Acting City Manager to conduct a public participation process regarding the proposed granting of rights for Social Housing Development, in terms of Regulations 34 1 (a) and (b) of the Municipal Asset Transfer Regulations of the Municipal Finance Management Act, 2003 for the granting of long terms rights by way of a lease for Remainder of Erf 1068 Sea View measuring in extent approximately 3.2190 ha, which has a market value of R15 000 000.00 (Fifteen Million Rand).
- 1.26.2 That the public participation process be conducted in accordance with the provision of the Local Government: Municipal Finance Management Act, 2003, including:
- 1.26.2.1 inviting the local community and other interested parties to submit comments or representations;
- 1.26.2.2 soliciting views and recommendation of the National and Provincial Treasury on the matter;
- 1.26.2.3 Complying with Section 21 of the Local Government: Municipal Systems Act, 2000, by publishing the notification through media, in local newspaper (s) published in the area of jurisdiction of the Municipality, in newspaper (s) circulating in its area of jurisdiction and determined by the Municipality as a newspaper record, or by means of a radio broadcast covering the area of jurisdiction of the Municipality.
- 1.26.3 That the Municipal Council approves in-principle the proposed granting of rights for Social Housing Development to be discounted by an amount of up to 90% of the fair market rental value subject to a rental deferment during construction phase of the proposed development, having duly considered the principles as set out in Regulation 13(2).

## **ADOPTED.**

- 1.27 Request for eThekweni Municipality to Utilize Urban Settlement Development Grant Funding for the Provision of 500 Infrastructure Services within Mariannridge Housing Project:  
(Page L12: Human Settlements and Infrastructure Committee - Agenda 2022-05-03)

The Committee received the report seeking approval for the Mariannridge Housing Project Breaking New Ground (BNG) located in the Western Region, Ward 13 that entails the construction of 500 infrastructure services and top structure to the Cities project. This project is included in the Urban Settlement Development Grant (USDG) for this current 2021/2022 and future years that will enable the services to be developed to the Cities development standards.

The agreement between the Provincial Department of Human Settlement (DoHS), Implementing Agent and eThekweni Municipality will be concluded in order to complete planning, designs and implementation of the project for the Mariannridge Housing Project. The appointment for the planning and services for the project will be informed by the normal tender procurement process for the appointment of the service provider for the top structure.

It be noted that the project is approved by the Provincial Human Settlements and is on their Annual Business Plan. The USDG financial requirements for this current financial year is estimated at R8 000 000.00 (Eight Million Rand) that will be established from savings within the Unit and Cluster.

With the Committee being in concurrence,

### **COMMITTEE RECOMMENDS:**

- 1.27.1 That authority be granted to include the Mariannridge Housing Project to the list of Urban Settlement Development Grant (USDG) project in order to be implemented on the approved Integrated Development Plan (IDP) of the City.
- 1.27.2 That Council authorizes alignments to the Cities Urban Development Standard, as prescribed in the IDP Chapter 3 in conjunction with the terms and conditions of the USDG.
- 1.27.3 That authority be granted for the conclusion of the tripartite contract agreement between the Provincial Department of Human Settlements, Implementation Agent and the eThekweni Municipality to be concluded in order to complete planning, designs and implementation of the project for the Mariannridge Housing Project.

### **Financial implications:**

It be noted that the project is approved by the Provincial Human Settlements and is on their annual business plan. The USDG financial requirements for this current financial year is estimated at R8 000 000.00 (Eight Million Rand) that will be established from savings within the Human Settlements Unit.

## **ADOPTED.**

2. REPORT OF GOVERNANCE AND HUMAN RESOURCES COMMITTEE:  
MEETING HELD 2022-05-11

(Page R34)

2.1 Sundry Grant in Aid 2022/2023 Financial Year (7/14/1):  
(Page 103 : Governance and Human Resources Committee - Agenda 2022-05-11)

The Deputy City Manager: Governance and International Relations made a brief presentation to the Committee seeking approval to call for applications for the Sundry Grant-In-Aid for the 2022/2023 financial year. Request to advertise on Municipal newspaper the application form to be used in the current year which will be printed in Isizulu and English. The application forms to be available on website [www.durban.gov.za](http://www.durban.gov.za) for eThekweni Municipality and these forms to be also distributed to Councillors for their respective Wards.

It was advised that applications for the Sundry Grant-In-Aid for the 2022/2023 financial year will be invited from registered organisations that meet the criteria, as per the Grant-In-Aid Policy, within the following sectors:

- (a) Early Childhood Development;
- (b) Social Welfare;
- (c) Sports, Culture and Recreation;
- (d) Economic Development;
- (e) Skills Development; and
- (f) Faith based Organisations conducting work for the community at large.

The applicants will also be allowed to submit their applications directly to the following Regional Offices so that those who might not have access to e-mails can be accommodated:

- Tongaat Sizakala Centre;
- Kingsburgh Sizakala centre;
- KwaMashu Sizakala Centre;
- Mega City Shopping Centre;
- Pinetown Civic Centre; and
- Westville Civic Centre.

Members were advised that the closing date for the submission of applications will be 30 June 2022 at 12:00 with all the necessary documents required.

However, during consideration of this item, Members requested that the closing date for submission of applications for the Sundry Grant-In-Aid for the 2022/2023 be extended to 30 July 2022 in order to provide sufficient time for all applicants as well as Councillors to inform community members in their respective Wards.

With the Committee being in agreement,

COMMITTEE RECOMMENDS:

2.1.1 That approval be granted to invite applications for the Sundry Grant-In-Aid for the 2022/2023 financial year from registered organisations that meet the criteria, as per the Grant-In-Aid Policy, within the following sectors:

- (a) Early Childhood Development;

- (b) Social Welfare;
- (c) Sports, Culture and Recreation;
- (d) Economic Development;
- (e) Skills Development; and
- (f) Faith based Organisations conducting work for the community at large.

- 2.1.2 That the closing date for the submission of applications for Sundry Grant-In-Aid for the 2022/2023 financial year be extended from 30 June to 30 July 2022 before 12h00.
- 2.1.3 That a list of all applicants received that meet the criteria, as per the Grant-In-Aid Policy, be submitted to the Governance and Human Resources Committee for information/approval.

**ADOPTED.**

- 2.2 Employee Recognition and Rewards Ceremony:  
(Page 138: Governance and Human Resources Committee - Agenda 2022-05-11)

The Deputy City Manager: Corporate and Human Capital made a brief presentation to the Committee on Employee Recognition and Rewards Award Ceremony to be held at the Inkosi Albert Luthuli International Convention Centre on 01 April 2022 to recognize and reward employees for outstanding performance and for excellence in carrying out their Municipal functions aligned to the city's Strategic Plan and the Integrated Development Plan.

During discussion, Members were advised the event was postponed due to logistic arrangements that needed to be finalised and disaster that took place in April 2022. The ceremony will now be held in August 2022 at a suitable date to be confirmed by the Chairperson of the Governance and Human Resources Committee and the Deputy City Manager: Corporate and Human Capital.

With the Committee being in concurrence,

COMMITTEE RECOMMENDS:

- 2.2.1 That approval be granted to host the Employee Recognition and Rewards Awards Ceremony in August 2022 at Inkosi Albert Luthuli International Convention Centre, with a specific date to be confirmed by the Chairperson of the Governance and Human Resources Committee and the Deputy City Manager: Corporate and Human Capital.
- 2.2.2 That subject to approval of .1 above, authority be granted for the Deputy City Manager: Corporate and Human Capital to incur expenditure in the amount of R246 360.00 (Two Hundred and Forty Six Thousand Three Hundred and Sixty Rand) for the implementation of the Employee Recognition and Rewards Awards Ceremony.

Vote Number: 33111.22710.30.12120.0000.MRC01.0010  
FC No.: 2022/14/43.

**ADOPTED.**

- 2.3 Renewal of Lease Agreement at KwaMnyandu Sizakala Centre (17/2/2/1/2):  
(Page 243: Governance and Human Resources Committee - Agenda 2022-05-11)

The Head: Sizakala Customer Service made a brief presentation to the Committee on Renewal of Lease Agreement at KwaMnyandu Sizakala Centre with an intention to proceed via regulations Section 116 (3) of the Municipal Supply Chain Management Regulations, in respect of the renewal of lease in the existing office premises at KwaMnyandu Shopping Centre, 341 Griffiths Mxenge Highway, Umlazi.

The Sizakala Customer Service Unit currently leases premises at KwaMnyandu Shopping Centre, 341 Griffiths Mxenge Highway, Umlazi and wishes to continue leasing the premises since the premises are favourable for business continuity. The Unit has various Sizakala Centres across the eThekweni boundaries, this is to bring various Municipal services closer to the communities. The Centre located in KwaMnyandu Shopping Centre serves that purpose to the neighbouring communities.

The lease is expiring on 10 December 2022 without any rights of renewal. In the absence of a suitable Municipal building to accommodate Units' operations, the intention is to re-negotiate with the existing Landlord for the extension of the current lease for a further three (3) years. The Sizakala Customer Service Unit is currently engaging in the process of securing a suitable Council owned land to build permanent office accommodation in Umlazi so as to continue current operations conducted at KwaMnyandu and Mega City Shopping Centres.

In the interim, the following reasons are provided as a motivation to continue to reside in the current location of KwaMnyandu Shopping Centre, taking into account the nature of business:

- a) There is no suitable Municipal premises/building currently available in the area to accommodate the Unit.
- b) Shopping centres are known for attracting large numbers of people; hence this location is ideal as a short-term plan to enable the public to gain access easily to Municipal services.
- c) The current location has a broader footprint as it is not limited to servicing Umlazi community but the surrounding areas as well.
- d) The Unit monitors this contract monthly and is satisfied with the level and quality of service currently offered by the Landlord.
- e) Any unplanned move to another location will cause gross business disruptions in service delivery coupled with unbudgeted costs implications.
- f) 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 may be fruitless and wasteful expenditure considering that a permanent office accommodation is currently being investigated.

During discussion, it was noted that Members of the Committee requested a tour of inspection to visit all Sizakala Centres within eThekweni Municipality.

With the Committee being in concurrence,

COMMITTEE RECOMMENDS:

2.3.1 That Council notes the intention by the Head: Sizakala Customer Service Centre to renew lease of KwaMnyandu Customer Services for a further three (03) years, in terms of Section 116(3)(a) of the Municipal Finance Management Act, 2003, for the following reasons:

- a) There is no suitable Municipal premises/building currently available in the area to accommodate the Unit.
- b) Shopping centres are known for attracting large numbers of people; hence this location is ideal as a short-term plan to enable the public to gain access easily to Municipal services.
- c) The current location has a broader footprint as it is not limited to servicing Umlazi community but the surrounding areas as well.
- d) The Unit monitors this contract monthly and is satisfied with the level and quality of service currently offered by the Landlord.
- e) Any unplanned move to another location will cause gross business disruptions in service delivery coupled with unbudgeted costs implications.
- f) 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 may be fruitless and wasteful expenditure considering that a permanent office accommodation is currently being investigated.

2.3.2 That the public notice in terms of Section 116(3)b) of the MFMA requesting comments regarding the proposed amendments will be advertised in the print media for the prescribed time.

2.3.3 That approval will be sort from the Bid Adjudication Committee and the Accounting Officer to grant authority to the Head: Real Estate to negotiate the final terms and conditions of the extended lease agreement taking into account the market rates and sign all documents necessary to conclude this process

**Financial Implications:**

In terms of the existing lease agreement, the current rental is R78,697.00 (Excluding VAT) per month fixed rental. The new rate will be negotiated by Real Estate Unit once approval is obtained. The period of the lease as follows:

11 December 2022 – 10 December 2023 - R958 529.46

11 December 2023 – 10 December 2024 - R958 529.46

11 December 2024 – 10 December 2025 - R958 529.46

# An amount of R399 387.28 will be incurred in 2025/26 financial year. Budget provision will be made on the 2022/23 MTREF.

**VOTE NUMBER:**

32517	15200	12120	0000	MRC01	R005
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**FC NUMBER: 2023/29/02**

**ADOPTED.**



3. REPORT OF COMMUNITY SERVICES COMMITTEE: MEETING  
HELD 2022-05-12

(Page R39)

3.1 Request for Approval to Implement the 2021/2022 City-Wide Verge Competition  
(31/4/1):

(Page 35: Community Services Committee - Agenda 2022-05-12)

With Committee being in concurrence,

COMMITTEE RECOMMENDS:

3.1.1 That authority be granted for the Head: Parks, Recreation and Culture to implement the 2021/2022 City-Wide Verge Competition with the aim to motivate residents, private sector institutions and schools to maintain their verges.

3.1.2 That subject to the adoption of .1 above, authority be granted for the Head: Parks, Recreation and Culture to incur expenditure in the amount of R250 000.00 (Two Hundred and Fifty Thousand Rand) utilizing funds from winnings received at the National City Arbour Awards.

**Financial Implications:**

It be noted that this project is not dependent on the full Council approval for the 2021/2022 financial year's operational budget as it is being sourced through the City's Arbour Winnings.

Expenditure Item	Business Unit	Items	Funds	Costing	Project	Ward/ Areas	Amount
<b>Budget</b>							R574 637.00
Publicity	18001	16315	12120	0000	83630	0001	R80 000.00
Prizes	18001	16325	12120	0000	83630	0001	R150 000.00
Prize-giving	18001	16325	12120	0000	83630	0001	R20 000.00
<b>Total</b>							<b>R250 000.00</b>

FC Number: 59/1253 – Funded by Total Petroleum prize money.

**ADOPTED.**

3.2 Request for Approval of Grants-In-Aid for Parks, Recreation and Culture Unit  
(7/14/1/1):

(Page 95: Community Services Committee - Agenda 2022-05-12)

Accordingly,

COMMITTEE RECOMMENDS:

3.2.1 That authority be granted for the Head: Parks, Recreation and Culture to distribute Grants in Aid to thirty two (32) organisations to support and promote various Arts, Culture and Heritage initiatives in the City.

3.2.2 That subject to the approval of .1 above, authority be granted to the Head: Parks, Recreation and Culture to incur expenditure in the amount of R5 500 000.00 (Five Million and Five Hundred Thousand Rand) to distribute to successful beneficiaries that applied for Grant-in-Aid within the local Arts, Culture and Heritage industries and programmes.

3.2.3 That subject to the approval of .1 and .2 above, authority be granted to the Head: Parks, Recreation and Culture to conclude a Memorandum of Agreement with each of the thirty two (32) organisations upon Council approval.

3.2.4 That subject to the approval of .1, .2 and .3 above, authority be granted for the Acting City Manager to sign a Memorandum of Agreement for a period of one (1) year, covering all aspects as required in terms of Section 67 of the Municipal Finance Management Act.

Financial Implications:

When the call for applications was advertised, the department had budgeted R17 000 000.00 (Seventeen Million Rand) for Grants in Aid. The amount was since reduced to R5 500 000.00 (Five Million and Five Hundred Thousand Rand) due to recent City budget reprioritisation processes.

NO.	NAME OF ORGANISATION	AMOUNT	VOTE NUMBER
1.	Flatfoot Dance Company	R350 000.00	15503.25030.17.12120.0000.M RC01 0010
2.	Centre for Creative Arts – University of KwaZulu-Natal	R300 000.00	
3.	Durban Music School	R400 000.00	
4.	KCAP	R400 000.00	
5.	African Art Centre	R250 000.00	
6.	KwaZulu-Natal Society of Arts	R250 000.00	
7.	The BAT Centre Trust	R400 000.00	
8.	Siwela Sonke Dance Company	R300 000.00	
9.	Wushwini Art Centre	R400 000.00	
10.	The Wentworth Arts and Culture Organisation	R100 000.00	
11.	Lebu Discovery Productions	R200 000.00	
12.	DIKIANGA	R100 000.00	
13.	Ikabawo Projects	R100 000.00	
14.	Isimilo Development Foundation	R150 000.00	
15.	Black and Proud	R100 000.00	
16.	I Grand Tenori NPC	R100 000.00	
17.	Gcinamasiko Arts and Heritage Trust	R150 000.00	
18.	Ntuzuma Music Foundation	R100 000.00	
19.	Imbadada	R200 000.00	
20.	Marry Gray Theatre Projects	R100 000.00	
21.	Amasosha Art Advancement	R100 000.00	
22.	Ingqwele Community Development Organisation	R100 000.00	
23.	Nguwe Wedwa Youth Development	R100 000.00	
24.	Umkhumbane Performing Arts	R100 000.00	
25.	Sagiya Foundation	R100 000.00	
26.	Art for Humanity	R100 000.00	
27.	Clermont Choir Foundation	R100 000.00	
28.	Hope Floats	R100 000.00	

NO.	NAME OF ORGANISATION	AMOUNT	VOTE NUMBER
29.	Kasi Amazing Young Artists	R100 000.00	
30.	UKUSA Arts Programme	R100 000.00	
31.	KUMISA	R100 000.00	
32.	Ikhono Foundation	R100 000.00	
	<b>TOTAL</b>	<b>R5,500 000.00</b>	

FC Number: 33/726

**ADOPTED.**

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

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## SECOND REPORT OF THE EXECUTIVE COMMITTEE

(Meetings held 2022-05-24 & 26)

PRESENT : Executive Committee Members TM Kaunda (Mayor and Chairperson), PG Mavundla (Deputy Mayor), Y Govender, NL Graham, NI Madlala, T Miya, TM Mthethwa, MS Nkosi, T Sabelo and ZR Sokhabase.

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### 1. REPORT OF ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE: MEETING HELD ON 2022-05-19

(Page R1)

#### 1.1 Application in Terms 26(1) of the eThekweni Municipal: Planning and Land Use Management By-Law 2016 (Municipal Notice 114 of 2017) Amendment of the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme West (hereinafter referred to as the Scheme) Section 7: the Development Facilitation Table for Special Zone 3: Erf 329 Assagay: Additional Controls (21/4/1):

(Page 21 : Economic Development and Planning Committee - Agenda 2022-05-19)

Authority is being sought for the amendment of the eThekweni Municipal Land Use Scheme: Outer West Sub Scheme West Section 7: the Development Facilitation Table for Special Zone 3: Erf 329 Assagay: Additional Controls:-

The amendment will promote land development that will encourage the use of existing hotel building for residential within the Polo Pony Complex. This will promote sustainable development and limit urban sprawl. In addition, this will contribute towards a viable community located within a Town Centre Precinct as identified by the Shongweni LAP (Local Area Plan)

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

Having noted that the proposed amendment is in line with the Spatial Development Framework of the eThekweni Municipality,

**COMMITTEE RECOMMENDS:**

That, in terms of Section 26 (1) (b) of the eThekweni Municipal Planning and Land Use Management By-Law 2016 (Municipal Notice 114 of 2017), the application for the amendment of the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme, Section 7: Development Facilitation Table: Additional Controls: in Special Zone 3: Erf 329 Assagay: Situated at 561 Kassier Road, Shongweni, be APPROVED, for the following reasons:

1. The proposed amendment of the Development Facilitation Table is not anticipated to have a negative and adverse impact on the surroundings, the zone of the subject site will remain Special Zone 3 and the amendment to additional controls secures the commitment to adhering to agreed upon parameters.
2. Furthermore, the scheme amendment to allow increase in FAR and Coverage is only restricted to the subject site. The proposed increase in FAR and coverage will address eThekweni Municipality Densification Strategy, 2013 recommendation of medium to high densities in this area.
3. The hotel use is no longer a viable use for the site and repurposing this site for residential units is a more viable option which is also aligned with the strategic plans of the City and the SPLUMA principles of efficiency and sustainability as the site will provide a range of residential accommodation options.
4. The proposed scheme amendment will not undermine the recommendations of the eThekweni Municipality strategic plans, which include the Spatial Development Framework (SDF), 2021/22; The Outer West Spatial Development Plan (SDP), 2014/15 and Shongweni Local Area Plan (LAP), 2010.
5. The proposed residential units will be approved in accordance with the Development Layout No. KAS-11-21, quoted in the scheme amendment. Therefore, the proposed development is seen as compatible with the surrounding residential development.
6. The subject site has access to the Sewerage Treatment Plant. The necessary authorisation is to be obtained from the internal and external Departments of Water and Sanitation for the increase in treatment capacity, discharge to the receiving environment and amendment of Water Services Providers Contract prior to development of the site.
7. It is anticipated that there would be a minimal impact on the amenity of the surrounding neighbourhood largely due to the location of the subject site. Access will be restricted to Kassier Road, which is a Provincial Road.

The following Development Facilitation Table will replace the existing Development Facilitation Table for Special Zone 3: Erf 329 Assagay, in the eThekweni Municipal

Land Use Scheme: Outer West Sub-Scheme, as this will include the amendments to the “additional controls”:

			ZONE: SPECIAL ZONE 3: ERF 329 ASSAGAY			
SCHEME INTENTION: To provide, preserve, use land or buildings for limited mix of land uses, as listed below. MAP COLOUR REFERENCE: Black cross hatch with special zone number						
PRIMARY		SPECIAL CONSENT	PRECLUDED			
<div>-Agricultural Land</div> <div>-Conservation area</div> <div>-Dwelling House</div> <div>-Educational Establishment</div> <div>-Flat</div> <div>-Fuelling &amp;Service Station</div> <div>-Health &amp; Beauty Clinic</div> <div>-Health Studio</div> <div>-Hotel</div> <div>-Restaurant /Fast Food Outlet</div>		<div>-Action Sports bar</div> <div>-Telecommunicati ons infrastructure</div> <div>-Car Wash</div> <div>-Direct Access Service Centre</div> <div>-Laundry</div> <div>-Office</div> <div>-Place of Public Entertainment</div> <div>-Shop</div> <div>-Student Residence Special Building</div>	<div>• Adult Premises</div> <div>• Agricultural Activity</div> <div>• Agricultural Land</div> <div>• Airport</div> <div>• Animal facility</div> <div>• Arts and Crafts Workshop</div> <div>• Betting Depot</div> <div>• Boarding House</div> <div>• Builder's Yard</div> <div>• Chalet Development</div> <div>• Container Depot</div> <div>• Correctional Facility</div> <div>• Creche</div> <div>• Cemetery/crem atorium</div> <div>• Display Area</div> <div>• Escort Agency</div> <div>• Private Open Space</div>	<div>• Flea Market</div> <div>• Funeral Parlour</div> <div>• Garden Nursery</div> <div>• Government/Municipal</div> <div>• Industry Extractive</div> <div>• Industry – General</div> <div>• Industry – Light</div> <div>• Industry Noxious</div> <div>• Institution</div> <div>• Landfill</div> <div>• Mobile Home Park and Camping Ground</div> <div>• Mortuary</div> <div>• Motor Display Area</div> <div>• Motor Garage</div> <div>• Motor Vehicle Test Centre</div> <div>• Motor Workshop</div> <div>• Multiple Unit Development</div> <div>• Museum</div>	<div>• Nature Reserve</div> <div>• Night Club</div> <div>• Office-Medical</div> <div>• Parkade</div> <div>• Pet Grooming Parlour</div> <div>• Place of Public Worship</div> <div>• Recycling Centre</div> <div>• Reform School</div> <div>• Refuse Disposal</div> <div>• Retirement Centre</div> <div>• Riding Stables</div> <div>• Scrap Yard</div> <div>• Transport Depot</div> <div>• Truck Stop</div> <div>• Utilities Facility</div> <div>• Veterinary Clinic</div> <div>• Warehouse</div> <div>• Zoological Garden</div>	
ADDITIONAL CONTROLS						
<div>1. Portion 1 of Erf 329 shall be used for Petrol Filling Station purposes only.</div> <div>2. Remainder of Portion 2 of Erf 329, Remainder of Portion 3 of Erf 329 and Portions 4 and 6 of Erf 329 shall contain no more than 125 units in total.</div> <div>3. Portion 5 of Erf 329 shall be used for Road purposes only.</div> <div>4. Portion 10 of Erf 329 shall contain no more than 87 units in total and a FAR of 0.56 and coverage of 45% shall apply.</div> <div>5.Any "mini-sub" created shall not be less than 200 m² in extent.</div> <div>6.A sewage package plant and all other infrastructural services shall be installed to the satisfaction of Council.</div> <div>7. Development of Portion 10 of Erf 329 shall be in accordance with the Layout Plan No. KAS-11-21</div> <div>8. Accommodation for motor vehicles and bus parking to be provided on the erf as per Section 8 / to the satisfaction of the Municipality</div>						
DEVELOPMENT PARAMETERS						
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM ERF SIZE	HEIGHT IN STOREYS	COVERA GE	FLOOR AREA RATIO
BUILDING LINE: FRONT	BUILDING LINE: SIDE AND REAR					
7.5 m	3 m	N/A	1800 m²	2	25 %	0.35

## ADOPTED.

- 1.2 Furniture Development Programme: KwaMashu Furniture Incubator: Supplementary Report to Previously Approved Programme Authority (20/1/6/3):  
(Page 37 : Economic Development and Planning Committee - Agenda 2022-05-19)

The Municipal Council at its meeting of 29 June 2021 resolved to support the KwaMashu Furniture Incubator Programme through the Furniture Development Programme. A company called Furntech was appointed as per approval by Council to

manage and operate the facility to provide furniture skills and incubation programme as part of the prodder industry development programme. Furntech also support the Municipality through the use of its own manufacturing equipment valued over R10 Million. However, the land and buildings are owned by the Municipality. The incubation programme is for a 3-year period, with effect from 2021 to 2024 in the total amount of R3 Million disbursed by the Municipality as per the breakdown of R1 Million per financial year and in terms of the requirements of the Local Government: Municipal Finance Management Act, 2003 and signed Memorandum of Agreement (MOA).

The Furniture Incubator Programme is progressing well, with 75% participants enrolled therein. A number of 15 unemployed learners have been selected for Level 1 training on furniture manufacturing skills funded by the Economic Development Unit. A number of 27 learners are selected for Level 2 training funded by the EThekweni Municipal Academy.

In terms of the approval given by Council on 29 June 2021, there was a resolution relating to lease, pertaining to the Municipality entering into a 3-year lease agreement with Furntech to lease the land and building at a waiver cost and as per the principles set out in Regulations 36 and 13(2) of the Municipal Asset Transfer Regulations (MATR) which need to be considered by the Municipal Council.

Accordingly, to support the KwaMashu Furniture Development Programme, consideration needs to be given with regard to the criteria in respect of Regulations 13(2); 34(1)(b); 36; and 40 of the MATR and the Committee therefore,

Accordingly, to support the KwaMashu Furniture Development Programme, consideration needs to be given with regard to the criteria in respect of Regulations 13(2); 34(1)(b); 36; and 40 of the MATR and the Committee therefore,

#### COMMITTEE RECOMMENDS:

- 1.2.1 That the Municipal Council approves in principle that the right be granted to use, control or manage the capital asset described as Proposed Long-Term Lease 1 and Proposed Short-Term Lease 2 and 3 all over the remainder of ERF 1134 KwaMashu E, as depicted on Plan SJ4696/2A, in extent of approximately 1,0679 h<sup>a2</sup> in terms of Regulation 34 (1)(b) read with Regulations 36 and 40 of the Municipal Asset Transfer Regulations (MATR), 2008, it being recorded that:
  - 1.2.1.1 The property is not required to provide the minimum level of Municipal services for a period of 3 (three) years, being the duration of the proposed lease.
  - 1.2.1.2 The market value of the property is currently assessed at a value of R13 700 000.00 (Thirteen Million Seven Hundred Thousand Rand), excluding VAT.
- 1.2.2 That the Municipal Council approves in principle a rental value of R10.00 (Ten Rand) per annum, having considered fair market value together with the principles as set out in Regulation 13(2) of the MATR.
- 1.2.3 That Council approves .1 above, subject to the condition that the appointment of the lessee shall be by direct negotiation and in full compliance with the prevailing Municipal legislative framework, including the Municipal Supply Chain Management Policy.

- 1.2.4 That all costs incidental to the transaction shall be at the cost of the lessee to whom the right to use, control or manage the capital asset is to be granted.
- 1.2.5 That all developmental plans must be submitted to the Local Authority for approval prior to any construction on the property.
- 1.2.6 That all conditions by the Municipality's Service Delivery Units as detailed in point 6 of the report by the Acting City Manager dated 2022-05-09, including the provisions detailed in Annexure C of the same report, will form part of the lease agreement.
- 1.2.7 That subject to all above and the approval of the Bid Adjudication Committee, authority be granted to the Head: Real Estate to sign all the documents necessary to give effect to this transaction in terms of the Supply Chain Management Policy of the Municipality, the Municipal Asset Transfer Regulation 2008, the Land Disposal and Granting of Rights Policy of the Municipality and any other applicable legislation, and that it shall be further subject to conditions as the Head: Real Estate considers necessary to protect Municipality's interest.

### **ADOPTED.**

- 1.3 Approval of Incentive Applications Terms of the Economic Development Incentive Policy (EDIP) 2021-22 (20/1/P):  
(Page 58: Economic Development and Planning Committee - Agenda 2022-05-19)

Authority is being sought for the award of incentives to the below mentioned applicants in terms of the Economic Development Incentive Policy (EDIP) 2021-2022. The EDIP gives effect to Clause 14.7 of the approved eThekweni Rates Policy:

- 1.1 Colkru Investments (PTY) Ltd-Inanda
- 1.2 Clover S.A (Pty) Ltd

The offer of incentives attracts new investment into the Municipal area and thereby contributing to increased revenue through property rates in the medium to long-term. This also attracts investment and promote the development of spatially targeted economic zones, Inner City Regeneration, increase targeted densification and enhance export activities through increased manufacturing and investment in local industries.

The incentive provided is in the form of rebate on property rates. A new investment must satisfy at least one or more of the special qualifying criteria, namely, (i) investment value; (ii) jobs created; (iii) targeted sector; and (iv) spatial priority.

Upon an enquiry on Colkru Investments being a repeat beneficiary, it was clarified that the previous consideration was for a different investment in 114 Dr Yusuf Dadoo Street. That the current report pertains to property rebates for Farm Piezang Rivier No. 805, Inanda. This was noted.

Having considered that both Colkru and Clover meet the criteria for investment incentive,

### **COMMITTEE RECOMMENDS:**

- 1.3.1 That the award of property rates rebate of 40% to Colkru Investments (Pty) Ltd for Inanda commercial development at Portion 178 (of 76) of the Farm Piezang Rivier No. 805, Inanda, for a fixed period of 3 years, commencing from date

of signing a Memorandum of Agreement (MOA), be approved, it being recorded the rebate percentage has been informed by the fact that this is an investment value of R35 Million in a targeted sector and with a number of 95 jobs to be created.

- 1.3.2 That the award of property rates rebate of 70% to Clover S.A (Pty) Ltd for a fixed period of 3 years commencing from date of signing the MOA, for the development including rationalisation of production platform and facilities at 100 Richmond Road, Queensburgh, Durban, be approved, it being recorded the project will entail construction of new buildings and alterations to the existing factory at a cost of approximately R230 Million in a targeted sector and with a number of 495 jobs to be created.
- 1.3.3 That, subject to the adoption of .1 and .2 above, authority be granted for the Acting City Manager to enter into a Memorandum of Agreement with the successful applicants.
- 1.3.4 That, subject to .1, .2 and .3 above, authority be granted for the Head: Economic Development and the Revenue Management Unit to implement the rates rebates in accordance with the Economic Development Incentive Policy.

### **ADOPTED.**

- 1.4 Request to Redirect Funds from Cato Manor Development Association Vote to Development Planning, Environment and Management Vote: Vesting of Properties Donated by the Provincial Department of Human Settlements (7/1/2/2 & 32/1/1/3/2):  
(Page 92: Economic Development and Planning Committee - Supplementary Agenda 2022-05-19)

Authority is being sought to redirect funds from the Cato Manor Development Association (CMDA) fund vote to the Development Planning, Environment and Management (DPEM) vote with the objective to make payment for the incidental advertising, application for the lost deed and vesting in respect of the name changes at the Deeds office in respect of properties donated by the Provincial Department of Human Settlements to eThekweni Municipality for environmental protection.

At the Support Committee level, the DA (09) abstained on the recommendations and the ANC (18), EFF (04) and IFP (03), ACDP (01), AL-JAMAH (01), Action SA (01), and MOSA (01) voted in support thereof.

At the Executive Committee level, the DA abstained on the matter as they were of the view that insufficient information has been submitted to enable the Committee to make informed decision. With the majority Members being in support,

### **COMMITTEE RECOMMENDS:**

That authority be granted to redirect funds in the amount of R523 507.76 (Five Hundred and Twenty Three Thousand Five Hundred and Seven Rand Seventy Six Cents) from the Cato Manor Development Association (CMDA) vote to the Development Planning, Environment and Management (DPEM) with the objective to fund the advertising, application for the lost deed and vesting in respect of the name changes at the Deeds office for environmental protection and management and other incidental costs.



**Financial Implications:**

It is proposed that funds be redirected from the CMDA vote to the DPEM vote. The invoiced amount totals R473 507.76 (Four Hundred and Seventy Three Thousand Five Hundred and Seven Rands and Seventy Six Cents) (see Annexure C). Furthermore, it is proposed that further financial provisions for any other incidental costs to be the tune of the tune of R50 000.00 (Fifty Thousand Rands only) . Such incidentals may include but not limited to procuring a current rate clearance certificate and re-lodgement of documents to the Deeds Office. Therefore, the total request for a transfer from the CMDA to the DPEM capital budget vote be R523 507.76 (Five Hundred and Twenty Three Thousand Five Hundred and Seven Rands and Seventy Six Cents), which would allow for the matter to be dispensed with in the 2021/22 financial year.

**As some members were not in support of the recommendations; the matter was put to the vote. With 180 Councillors present, 114 Councillors ANC - 82, IFP – 15, ASA - 03, ABC - 01, ACC - 01, ACDP - 01, AIC -02, ADEC - 00, APF - 01, ATM - 01, AL JAMA-AH - 01, DLC - 00, JEP - 01, KZNI - 01, MF - 01, MOSA - 00, NFP - 01, PFP - 00, PRM - 01, TA- 00, UIM - 01 and VF Plus - 00) voted in favour; 00 Councillors voted against the matter and 66 Councillors (DA – 49 and EFF – 18) abstained on the matter.**

**ADOPTED; by the majority vote.**

2. REPORT OF FINANCE, SECURITY AND EMERGENCY SERVICES COMMITTEE: MEETING HELD ON 2022-05-19

(Page R8)

2.1 Quarterly Report on Withdrawals from Municipal Bank Account in Terms of the Municipal Finance Management Act, 2003 (7/8/6):  
(Page 12: Finance, Security & Emergency Services Committee - Agenda 2022-05-19)

In noting the report in the above regard,

COMMITTEE RECOMMENDS:

2.1.1 That the report on withdrawals from the Municipal bank account as at 31 March 2022, submitted in terms of Section 11(4) of the Municipal Finance Management Act, be noted, it being recorded that the withdrawals relate to the following:

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

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

**NOTED.**

2.2 Progress Report on Achievement of Minimum Competency Levels by Regulated Municipal Officials in Terms of Section 168 of the MFMA, 2003 (6/2/3/1):  
(Page 15: Finance, Security & Emergency Services Committee - Agenda 2022-05-19)

In terms of Section 168 of the Local Government: Municipal Finance Management Act, 2003, certain Municipal Senior Officials are required to undergo the Municipal

Finance Management Training registered by the South African Qualifications Authority and validated by National Treasury.

It is then a requirement that a progress report be submitted to National and Provincial Treasury as well as the Municipal Council on the status of compliance as per the relevant modules to be completed at 100% by the officials concerned.

In noting the progress Report as submitted,

**COMMITTEE RECOMMENDS:**

That progress relating to the status of compliance on the achievement of Municipal Minimum Competency levels by regulated Municipal officials, as per Regulations set out in terms of Section 168 of the Local Government: Municipal Finance Management Act No. 56 of 2003, be noted as per the status in the table below:

Category	Summary Report
Accounting Officer	Compliant as per Regulation
Chief Financial Officer	85% modules completed 15% modules in progress
6 Senior Managers (MSA S56)	3 Compliant as per Regulation 3 completed 93% of modules 7% of modules in progress
3 Supply Chain Management	2 Compliant as per Regulation 1 completed 81% of modules; and 19% of modules in progress
1 Middle Manager: Finance	1 Compliant as per Regulation

**NOTED.**

2.3

Report on Investments for the Month Ended 31 March 2022 (7/11/4):

(Page 18: Finance, Security & Emergency Services Committee - Agenda 2022-05-19)

The attention of the Committee was drawn to the salient features of the report relative to eThekweni Municipality funds invested at financial institutions amounting to R6 088 Million, at an average rate of return on investments of 5.04%. It was reported that cash on hand has moved from 15 days in February 2022 to 42 days as at end March 2022. That the Municipality's positive credit ratings were maintained as per notification by the Global Credit Rating company.

During consideration, attention was drawn to areas needing priority, such as enhancement of revenue through improved debt collection strategies, with more focus on parastatals, entities and government departments and also formalizing debts arrangements where required. Also, to consider service disconnection to enforce payment, it being acknowledged that schools be exempted from such disconnections to ensure uninterrupted basic rights to education.

Accordingly,

**COMMITTEE RECOMMENDS:**

That the report on investments for eThekweni Municipality as at 2022-03-31, which records the total funds invested at financial institutions as R6 088 000 000.00 (Six Billion and Eighty-Eight Million Rand), at an average rate of return on investment of 5,04%, as submitted by the Acting City Manager, in line with the requirements of the Municipal Cash Management and Investment Regulation of the Municipal Finance Management Act, 2003, be noted.

## **NOTED.**

2.4

### Forecasted Overspent in Metro Police Overtime (4/5/1/3):

(Page 64: Finance, Security & Emergency Services Committee - Agenda 2022-05-19)

Authority is sought for the re-allocation of funds from savings in salaries to fund overtime within the Metro Police Unit. The re-allocation is in line with Council-approved Budget Virement Policy and is aimed at funding the forecasted overtime spent of R60m for the month of February to June 2022. The Metro Police Unit has exhausted the 2021/22 approved overtime budget of R120m, while the Unit continues to receive unbudgeted requests from various Council Departments to provide services such as VIP protection, land invasion assistance, various labour-related disputes, disruptions to contractors doing Council projects as well as various service delivery protests, and the Unit's emergency response service continues to strain the Metro Police resources. The Unit is currently operating on deficit, which if not rectified would result in unauthorised expenditure.

As some Members were not in support of the recommendations at the Support Committee level, the Democratic Alliance (11), IFP (03) and the MF (01) abstained on the matter. The EFF (04) and the Action SA (1) voted against the matter. The ANC (16), ACC (01) and the PFP (01) supported the recommendations.

At the Executive Committee level, Members shared similar sentiments that proper controls need to be implemented to monitor overtime within the Municipality. This to take into account the requirements in terms of the Labour Relations Act with respect to the structure of employee working hours as well as the activities which give rise to overtime and related costs, thereby reducing support where practical, but without compromising safety of individuals, and also monitoring that claims are made according to the events duration.

Meanwhile, the role of Metro Police in supporting various needs of the Municipal Units was acknowledged. In particular, during the civil unrest and now the recent floods, with Metro Police visibility playing a crucial role. It was noted that the Unit is short-staffed yet the demands for its service vary from different kinds of policing needs in pursuit of the Municipal operations. It was then emphasised that the recruitment of 300 (three hundred) additional staff in the Metro Police Unit be expedited. The Committee also received a detailed account of the Metro Police activities justifying the use of overtime, and also submission that the Unit is working on measures to reduce overtime. However, that the nature of some of the operations makes it impractical to curb overtime as this impact business continuity.

Taking into account the crime statistics, with some of the eThekweni areas leading nationally in terms of crime, and with eThekweni Councillors and officials being also a target and thus recent killings, a suggestion was made that a dedicated session be coordinated to discuss the state of policing the City of eThekweni. The session

to include all role players in the field of law enforcement, including the South African Police Service.

On the claims submitted that overtime payment was implemented unilaterally within the Unit, it was confirmed that Metro staff members from all Regions are paid overtime when having rendered service outside the normal working hours. The Executive Committee then emphasised the importance of standardization in this regard thereby exercising equal staff treatment.

Thereafter, the DA (03) voted against the approval of additional funds for the Metro Police Unit overtime as they felt there is a lack of proper control, hence, no accountability and thus a loophole for abuse of overtime. The IFP (01) also voted against and requested a detailed report on factors which give rise to overtime payment.

The ANC (05), EFF (01) and ABC (01) supported the approval of additional budget given the varied nature of operations requiring the involvement of Metro Police, and taking into account inadequate personnel in the Unit, hence, a decision to fastrack the recruitment of additional 300 staff members, also, the proposal to analyse the state of policing in the City to assist in giving an overview of the police demands; overtime requirements; and payment thereof, including consideration to curb overtime payment rate.

In view of the foregoing,

#### COMMITTEE RECOMMENDS:

That authority be granted for the re-allocation of funds within the Metro Police Unit budget, in accordance with the Council-approved Budget Virement Policy, to cater for the additional overtime spend forecasted at R60 Million as at June 2022, it being recorded that the Unit's resources are stretched given excessive demand for police enforcement services Municipal-wide.

#### Financial Implications:

2021/2022 Original Budget	Additional Request	2021/2022 Proposed Adjusted Budget	Financial Certificate for the Re-allocation of funds
R120 269 800.00	R60 000 000.00	R180 269 800.00	2022/12/14

#### REFERENCE BACK

**In terms of Rule of Order Bylaw 20(1)(c), Councillor Annipen of the IFP, moved as a procedural motion and seconded by Councillor NC Gumede of the IFP, that the above recommendations of the Executive Committee be referred back to the Finance, Security & Emergency Services Committee since IFP required further clarity on overtime issue within Metro Police.**

**Therefore, as there were contrary views, the matter was put to the vote. the matter was put to the vote. With 169 Councillors present, 38 Councillors EFF - 17, IFP - 14, ASA – 04, ACC - 01, ACDP -01, UIM – 01, ADEC - 00, DLC - 00, MOSA - 00, NFP - 00, TA- 00, and VF Plus - 00) voted in favour; 139 Councillors (ANC – 82, DA - 46, ABC – 01, AIC - 02, APF – 01, ATM – 01, AL JAMA-AH - 01, JEP – 01, KZNI – 01, MF – 01, PFP – 01 and PRM – 01) voted against the matter and 00 Councillor abstained on the matter.**

Accordingly, the motion was, by the majority vote, **NOT CARRIED**

Reverting to the substantive matter, the Action SA advised that their concern was that overtime can be used to hire more employees and simultaneously address high youth unemployment rate.

Meanwhile, the IFP cited that the issue of over-expenditure at Metro Police has been going on for a longer period with no action taken to address it. It was advised that clarity on issues contributing to overtime was required in order to undertake interventions to address issues such as shortage of staff. The DA added that Metro Police was operating with under half required staff. That Metro Police has under spent on salaries which could have been spent on employing new employees.

The ANC supported the matter and echoed other parties' concerns that Metro Police was indeed short staffed as opposed to other Metros. It was pointed out that recruitment of new staff members has been budgeted for in the recently adopted budget and therefore overtime will remain funded to ensure continuity of law enforcement while recruitment process was taking place. It was mentioned that Metro Police worked tirelessly to enforce Bylaws during the 2021 July Unrest, COVID pandemic and recent floods. Therefore, to keep the law and order in the City, funds for overtime should be budgeted for until adequate employees have been successfully recruited. It was highlighted that overtime abuse will be closely monitored.

As some members were not in support of the recommendations; the matter was put to the vote. With 176 Councillors present, 93 Councillors ANC - 81, ABC - 01, ACC - 01, AIC - 01, ADEC - 01, APF - 01, ATM - 01, AL JAMA-AH - 01, DLC - 00, JEP - 01, KZNI - 01, MOSA - 00, NFP - 01, PFP - 01, PRM - 01, TA- 00, and VF Plus - 00) voted in favour; 82 Councillors DA – 45, EFF - 17, IFP – 15, ASA - 04, ACDP – 01 and UIM - 01 voted against the matter and 01 Councillor (MF – 01) abstained on the matter.

**ADOPTED; by the majority vote.**

2.5

Report on Investments for the Month Ended 30 April 2022 (7/11/4):

(Page 96: Finance, Security & Emergency Services Committee - Agenda 2022-05-19)

COMMITTEE RECOMMENDS:

That the report on investments for eThekweni Municipality as at 2022-04-30, which records the total funds invested at financial institutions as R5 640 000 000.00 (Five Billion Six Hundred and Forty Million Rand), at an average rate of return on investment of 5,00%, as submitted by the Acting City Manager, in line with the requirements of the Municipal Cash Management and Investment Regulation of the Municipal Finance Management Act, 2003, be noted.

**NOTED.**

2.6

Approval of Accounting Policies (7/P):

(Page 102: Finance, Security & Emergency Services Committee - Agenda 2022-05-19)

Section 122(3) of the Local Government: Municipal Finance Management Act, 2003, requires Municipalities and Municipal entities to prepare Annual Financial Statements

(AFS) in accordance with Generally Recognized Accounting Practice (GRAP). The AFS for eThekweni Municipality for the year ending 30 June 2022 will be prepared in accordance with GRAP, as presented by the Minister of Finance in terms of Accounting Standards Board Directive 5.

An amended set of Accounting Policies have been drawn up to facilitate the current year's GRAP compliant AFS, details of which are contained in Annexure "A" in the Report by the Acting City Manager dated 2022-05-16. Some of the enhancements incorporated on the Accounting Policies include the following:

- (i) The significant judgement used to calculate the provision for impairment of trade receivables have been expanded to further clarify the basis of the calculation, which is the default of history of the debtors and not the collection rate.
- (ii) The materiality figure on the Accounting Policy for materiality has been updated based on the latest audited AFS in order to provide relevant information to the users in terms of how the materiality figure was calculated.
- (iii) The Heritage Asset Accounting Policy has been expanded to clarify that where the evidence is available to determine the market value in an active market of a heritage asset at initial measurement, a valuation technique may be used to determine its fair value.

In noting statutory requirements in relation to the preparation of the AFS,

**COMMITTEE RECOMMENDS:**

That in order to ensure compliance with Section 122 (3) of the Local Government: Municipal Finance Management Act, 2003 and the National Treasury Guidelines, which require that the Annual Financial Statement of the eThekweni Municipality and its entities is in accordance with the Standards of Generally Recognized Accounting Practice, the Accounting Policies reflected in Annexure "A" to the report of the Acting City Manager dated 2022-05-16, be approved.

**ADOPTED.**

3. **DIRECT EXCO REPORTS**

3.1 **MAYORAL LEKGOTLA RESOLUTIONS 2022 (2/1/4/1/2)**

(Page 01)

It will be recalled that the above matter was tabled at the Council meeting of 28 April 2022 and a decision was taken to refer the item back to the Executive Committee to afford Political Party Caucuses time to engage the Report and contribute input and comments, if any.

As per the Council decision that this matter be concluded in the May Council meeting given that the resolutions are of strategic imperatives, the recommendations are resubmitted for consideration and approval.

**COMMITTEE RECOMMENDS:**

3.1.1 That Council approves the resolutions of the February 2022 Mayoral Lekgotla, as detailed in the report of the Acting City Manager dated 2022-05-23, it being submitted that the resolutions focus on strengthening Municipal operations in relation to budget matters for financial sustainability; key economic and investment priorities; social infrastructure investments; organisational structures; human capital issues, including performance management; transformative opportunities; critical partnerships; improving intergovernmental planning and implementation, and a suitable implementation strategy beyond the five-year term of Local Government, with the implementation to therefore focus on the following:

- (i) Implications and prioritization for the Budget allocations for the 2021-2023 Medium Term Revenue Expenditure Framework (MTREF);
- (ii) Review of Metro Catalytic Projects;
- (iii) Alignment to the Ten-Point Mayoral Plan 2021-2026;
- (iv) Development of Business Plans by All Units and Clusters in the agreed Strategic; Tactical and Area Programmes, as per the proposed Implementation Strategy;
- (v) Review of Performance Management System to ensure improvement on Clusters and Organisational Performance;
- (vi) Review of the Community Infrastructure Programme (CIP);
- (vii) Lobby for the repurposing of the Human Settlements Development Grant (HSDG); and
- (viii) Actively seeking and promoting partnerships.

3.1.2 That Council approves the quarterly monitoring and evaluation timeline for progress and oversight via the Executive Committee, it being noted the aforesaid Committee will conduct monthly oversight in preparation to report to Council.

**Financial Implications:**

The Lekgotla reflected intensely on the financial implications. Further consultations process as legislated are anticipated to finalise the 2022-2023 financial year budget and the MTREF budget allocations in line with the Resolutions and Actions as agreed upon at the Lekgotla and as per the Budget parameters presented.

**ADOPTED.**

3.2 TERMS OF REFERENCE FOR THE ETHEKWINI SUSTAINABLE DEVELOPMENT GOALS INSTITUTIONALISATION COMMITTEE (3/2/1)

(Page 30)

**COMMITTEE RECOMMENDS:**

That Council approves the Terms of Reference for the eThekweni Municipality Sustainable Development Goals (SDG) Institutionalization Committee, attached

to the Report by the Acting City Manager dated 2022-05-20, it being noted that the Institutionalization Committee will serve as a driving vehicle for localization, implementation, monitoring and reporting on SDG in the Municipality, in relation to the United Nations indicators pertaining to progressively eliminating extreme poverty and facilitating sustainable development that takes into consideration the environment, the economy and people in equal measure.

**ADOPTED.**

3.3 DRAFT NOTICE: DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS FOR THE 2021/22 FINANCIAL YEAR

(Page 44)

COMMITTEE RECOMMENDS:

- 3.3.1 That Council notes Draft Notice on the Determination of Upper Limits of the Salaries, Allowances and Benefits of Different Members of Municipal Councils for the 2021/2022 financial year, as contained in Circular 14/2022 from the South African Local Government Association (SALGA) attached herein.
- 3.3.2 That Council considers and comments on any area that might not have been covered on the Draft Notice: Determination of Upper Limits of the Salaries, Allowances and Benefits of Different Members of Municipal Councils for the 2021/2022 financial year.
- 3.3.3 That subject to comments being submitted in line with .2 above, authority be granted for the Acting City Manager to make written submissions to SALGA on behalf of the Municipality.
- 3.3.4 That Council notes that in terms of the Draft Notice: Determination of Upper Limits of the Salaries, Allowances and Benefits of Different Members of Municipal Councils for the 2021/2022 financial year, SALGA continues to lobby for Municipalities and further propose the following key issues to the Independent Commission for the Remuneration of Public Office Bearers:
- 3.3.5 Public Office Bearers in Local Government ought to be remunerated in line with other Public Officer Bearers at National and Provincial Government;
- 3.3.6 All Councillors ought to be full-time due to the nature of their work; and
- 3.3.7 That capacity building programmes for Councillors should include tertiary education where funds are available, and this must be in line with their requirements as Councillors.

**ADOPTED.**

3.4 REQUEST FOR APPROVAL TO EXTEND TERM OF OFFICE OF 2 DIRECTORS OF INKOSI ALBERT LUTHULI INTERNATIONAL CONVENTION CENTRE (4/3/2)

(Page 87)



COMMITTEE RECOMMENDS:

- 3.4.1 That Council notes the expiry of term of office of two (02) Board of Directors at Inkosi Albert Luthuli International Convention Centre, namely, Prof Bonke Clayton Dumisa and Ms Linda Rose Anne Ngcobo, as having expired in April 2022.
- 3.4.2 That Council approves the extension of the term of office of the two (02) Directors referred to in .1 above to serve on the Inkosi Albert Luthuli International Convention Centre Board for another three (03) years, with effect from 01 May 2022 to 30 April 2025.

**ADOPTED.**

- 3.5 REQUEST TO SUPPORT IMPUCUZEKO MASKANDI FESTIVAL THROUGH PARTNERSHIP AND SPONSORSHIP BY ETHEKWINI MUNICIPALITY (13/2/1/2/1)

(Page 90)

The DA (03) abstained on the matter as they felt an investigation is required since the company being sponsored appears to be the same for the two different events being supported by the Municipality. That this means a significant amount of public funds is being given to one company for both the item under discussion and the item on 3.8 below regarding Ingoma Festival.

Clarity was then provided that the events are different in nature, and with the Ingoma event being a latest introduction and to be pursued involving Amakhosi and different traditional Ingoma groups. It was confirmed that the founder of Impucuzeko Maskandi has ventured into a different Ingoma platform but that this include other new Directors since this was a different angle of the traditional event.

Given the suspicion raised, the DA (03) abstained on the matter at this stage. The other Members supported the events given the significance of sustaining tradition as the pride of the nation. However, it was submitted that the suspicions should be cleared so as not to jeopardize the good events in recognition of traditional talent. Therefore, by the majority support,

COMMITTEE RECOMMENDS:

- 3.5.1 That Council approves sponsorship of Impucuzeko Maskandi Festival in the amount of R3 033 520.04 (Three Million and Thirty Three Thousand Five Hundred and Twenty Rand Four Cent), through funds available for the 2022/2023, 2023/2024 and 2024/2025 financial year, and with the event to be hosted at the Moses Mabhida Stadium.
- 3.5.2 That authority be granted for the Deputy City Manager: Community and Emergency Services to negotiate benefits and rights to leverage the destination and profile Durban with the Event Organizer of the Impucuzeko Maskandi Festival.
- 3.5.3 That authority be granted for the Acting City Manager to conclude contracts with the event owners against the partnership investment.

Financial Implications:

The total implications for Impucuzeko Music Festival are R3 033 520.04 PROVIDED for the 2022/2023, 2023/2024 and 2024/2025 financial year towards venue hire of Moses Mabhida Stadium and Technical.

Item	Amount	Vote Number
Venue Hire (MMS)	R2 683 520.04	14001.18950.10.12120.38300.0010.0000
Sponsorship towards Sound, Roof Stage, Lighting and to Impucuzeko Non-profit Organisation.	R350 000.00	14001.16325.12120.0010.0000.
<b>Total</b>	<b>R3 033 520.04</b>	

FC No: 32/261

**As some members were not in support of the recommendations; the matter was put to the vote. With 172 Councillors present, 127 Councillors ANC - 78, EFF - 21, IFP – 15, ASA - 03, ABC - 01, ACDP - 01, AIC -02, DLC – 00, ADEC - 00, APF - 01, ATM - 01, AL JAMA-AH – 00, JEP - 01, KZNI - 01, MOSA - 00, NFP- 01, PFP - 00, PRM - 01, TA- 00, UIM - 00 and VF Plus - 00) voted in favour; 00 Councillors voted against the matter and 45 Councillors (DA – 43, ACC- 01 and MF - 01) abstained on the matter.**

**ADOPTED; by the majority vote.**

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

The recommendations of the Municipal Public Accounts Committee Report comprising details of the activities conducted during the Third Quarter of the 2021/2022 Financial Year: January to March 2022 as contained in the Council Agenda (2022-06-07), were **NOTED.**

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Municipal Public  
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## **1. CHAIRPERSON'S STATEMENT**

It is my pleasure to present to you the Quarterly Report of the Municipal Public Accounts Committee (MPAC) which records the activities of the Committee from January 2022 to March 2022.

We, as councillors, were inaugurated as new Council members on 22<sup>nd</sup> November 2021 and were subsequently appointed by Council to serve on MPAC on 15<sup>th</sup> December 2021. Our first meeting was held on 2022-01-20 and we were glad to welcome back old members as well as new members of the Committee.

We went through an intensive induction to MPAC and received the requisite training in order to commence our duties of interrogating the municipality's 2020/2021 Annual Report in order to submit the Oversight Report timeously to Council at the end of March 2022.

As an Oversight Committee, we take our role seriously in matters of service delivery and protecting the public purse. It is our intention to contribute fully towards clean administration and good governance in the City.

Councillor Pearl Mkhize

Deputy Chairperson: Municipal Public Accounts Committee

eThekweni Municipality

## 2. MEMBERSHIP AND MEETINGS OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

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

### 2.1 Membership of the Municipal Public Accounts Committee during the third quarter of 2021/2022:

NO.	SURNAME	NAMES	DESIGNATION	PARTY
1.	Khoza*	Makhosi Busisiwe	Chairperson	ActionSA
2.	Mkhize	Pearl	Deputy Chairperson	ANC
3.	Beetge	Andre	Member	DA
4.	Collins	Terence Peter	Member	DA
5.	De Boer	Shontel Veronica	Member	DA
6.	Fortein	Barbara Agnes	Member	ANC
7.	Jokweni	Mfanafuthi Arthur	Member	ANC
8.	Naidoo	Jane	Member	IFP
9.	Ngcobo	Sindiswa Pretty-Girl	Member	ANC
10.	Thusi	Muzikayise	Member	ANC
11.	Xuma**	Thamisanqa	Member	EFF

\* ActionSA declared a vacancy on 2022-03-23 and advised that Councillor Dr MB Khoza was no longer a member the party.

\*\* Councillor T Xuma replaced Councillor V Ndlovu of the EFF. He was appointed by Council on 2022-02-28.

## 2.2 Attendance of Members at Municipal Public Accounts Committee for the third quarter 2021/2022:

Name	JAN 20	JAN 28	JAN 31	FEB 07	FEB 08	FEB 10	FEB 17 *	FEB 18*	MAR 01	MAR 03	MAR 10	MAR 17	MAR 18	MAR 23	MAR 24#	MAR 25#
Councillor MB Khoza (Chairperson)	P	P	P	P	P	P	<b>C A N C E L L E D</b>	<b>C A N C E L L E D</b>	L	L	L	P	P	L	<b>C A N C E L L E D</b>	<b>C A N C E L L E D</b>
Councillor P Mkhize (Deputy Chairperson)	P	P	P	P	P	P			L	L	P	P	P	P		
Councillor A Beetge	P	P	P	P	P	P			P	P	P	P	P	P		
Councillor TP Collins	L	L	L	P	P	P			P	P	P	L	P	P		
Councillor SV De Boer	P	P	P	P	P	P			P	P	P	P	P	P		
Councillor B Fortein	P	P	P	P	P	P			P	L	P	P	P	P		
Councillor MA Jokweni	P	P	P	P	P	P			P	L	P	P	L	P		
Councillor J Naidoo	P	P	P	P	P	P			P	P	P	P	P	P		
Councillor V Ndlovu	****	P	P	P	P	P			-----	-----	-----	-----	-----	-----		
Councillor SP Ngcobo	P	P	P	P	P	P			P	L	P	P	P	P		
Councillor M Thusi	A	P	P	P	P	P			L	L	L	P	P	P		
Councillor T Xuma	-----	-----	-----	-----	-----	-----			A	A	A	P	L	P		

Symbol: (P)resent, (L)eave, (A)bsent

\* MPAC meetings on 17<sup>th</sup> and 18<sup>th</sup> February cancelled due to Mayoral Lekgotla.

# Special MPAC meetings scheduled on 24<sup>th</sup> and 25<sup>th</sup> March cancelled as Committee finalised the Oversight Report to Council by 2022-03-23.

### **3. ROLE OF THE COMMITTEE AND COMMENTS**

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

### **4. SUMMARY OF COMMITTEE ACTIVITIES FOR PERIOD JANUARY 2022 TO MARCH 2022**

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

<b>Activity</b>	<b>Number</b>
Reports Tabled	42
Deliberative Meetings	8
Interviews with Officials	35
Hearings	4
Briefings	Nil
Witnesses Appearing	Nil

### **5. MUNICIPAL PUBLIC ACCOUNTS COMMITTEE COMMENTS AND FINDINGS FOR THE THIRD QUARTER OF 2021/2022**

As per the MPAC Workplan 2021/2022 adopted by Council on 2021-05-27, the following reports were received and considered by Committee during the 1<sup>st</sup> quarter:

- Monthly report on awards made by the City for the months of September, October, November 2021 and January 2022,
- Budget statement reports for the months ended September, October, November, December 2021 and January 2022
- Mid-Year Budget and Performance Assessment of the Municipality and Entities
- Audit Committee Report
- Review of external service provider performance monitoring within the Municipality for Quarter 1 : 2021/2022
- Consequence Management report



We are confident that the recommendations contained therein (Annexure A) will go a long way towards improving service delivery.

The Committee will continue to monitor the implementation of the Auditor General findings (Annexure B) as Unit Heads have been requested to provide reports in respect of the progress of these findings.

## 6. WORKSHOPS AND TRAINING

As part of the induction process for MPAC members, the following sessions were held by Senior Management, CoGTA and National Treasury which related to the training of members:

<b>DATE</b>	<b>TRAINING</b>	<b>PRESENTER</b>
2022-01-28	<p>Finance Matters</p> <ul style="list-style-type: none"> <li>▪ Budget Process &amp; In-Year Reporting</li> <li>▪ Cash Reserves</li> <li>▪ Key Expenditure Issues</li> <li>▪ Revenue Collection</li> <li>▪ Debt Management</li> </ul> <p>Supply Chain Management Matters</p> <p>Unauthorised, Irregular, Wasteful and Fruitless (UIFW) Expenditure</p> <p>AG Findings &amp; Action Plan</p>	<p>Chief Financial Officer</p>    <p>Head: Supply Chain Management</p> <p>Deputy Head: Internal Control, CoGTA, National Treasury</p> <p>Head: Internal Audit</p> <p>Deputy Head: Internal Control</p>
2022-01-31	<p>Terms of Reference &amp; Proposed Amendments</p> <p>Performance Management Matters</p>	<p>Deputy Head: Litigation</p> <p>Head: Performance Management &amp; Monitoring</p>
2022-02-07	<p>MPAC Roles &amp; Responsibilities: MFMA Perspective</p> <p>UIFW, Financial Misconduct, Disciplinary Board</p> <p>Amendment to the Municipal Structures Act and MPAC Brochure</p>	National Treasury
2022-03-10	Consequence Management	<p>Deputy City Manager: Governance and International Relations</p> <p>Deputy City Manager: Corporate &amp; Human Capital</p> <p>Head: City Integrity &amp; Investigations</p>

In addition, returning Members of MPAC were able to share their institutional knowledge with incoming members on key focus issues which related to the Committee.

## 7. RECOMMENDATIONS

### COMMITTEE RECOMMENDS:

That the report of the Municipal Public Accounts Committee for the third quarter of the 2021/2022 financial year, 1<sup>st</sup> January to 31<sup>st</sup> March 2022, be noted.

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### ANNEXURE A

#### 2020/2021 OVERSIGHT REPORT

##### 1. NON-COMPLIANCE WITH LAWS AND REGULATIONS

###### 1.1 Annual Financial Statements

The Auditor-General reported that the financial statements submitted for auditing were not prepared in all material respects in accordance with the requirements of Section 122(1) of the MFMA. There were material misstatements of property, plant and equipment and depreciation identified by the auditors in the submitted financial statement were subsequently corrected resulting in the financial statements receiving an unqualified audit opinion.

There were no other material adjustments to the financial statements.

During our engagement with the Chief Financial Officer, he provided a background to the finding as follows:

- During the audit of Capital Work in Progress (CWIP), it was established through physical verification, that assets categorised as CWIP were in use and not under construction.
- In line with the auditor's recommendation, management assessed the population of CWIP to identify assets that were incorrectly classified as CWIP.
- The identified items were either transferred to PPE, debtors or expensed and depreciation calculated and processed for the items capitalised.
- The consolidated financial statements were subject to audit by the AG following the material adjustments on the municipality's separate financial statements.

In our deliberation of the matter, we noted that Finance will be instituting the following control measures to address the finding:

- Additional controls will be implemented to ensure that assets are capitalized in line with the dates on the practical completion certificate and at the time of final payment.
- The accounts payable payment checklist for construction related contract payments will be updated to include the percentage of completion of projects. If the

percentage of completion is close to 100%, the completion and final payment certificate will be required to be attached.

- CWIP will be reviewed monthly and projects in progress will be confirmed.

A further control measure introduced by Finance, to mitigate the risk, was the non-release of retentions until completion certificates are issued and submitted to Finance.

While we understand that Finance is putting controls in place, we are of the opinion that the Deputy City Manager: Trading Services and the Deputy City Manager: Human Settlements, Engineering and Transport should be accountable for this repeat finding.

Having noted the measures instituted to address the material misstatements identified by the Auditor General in the 2020/2021 Audited Financial Statements,

#### COMMITTEE RECOMMENDS:

That Council notes that the Municipal Public Accounts Committee will review the outcome of the interim audit to establish whether the measures instituted have been successful in resolving the issues of inadequate asset management and project management by line Units which resulted in the material finding.

#### 1.2 Expenditure Management

The Auditor-General reported that reasonable steps were not taken to prevent irregular expenditure of R 768,27 million (2019-20: R1,07 billion) disclosed in note 50 to the annual financial statements of the municipality, as required by Section 62(1)(d) of the MFMA. The majority of the irregular expenditure was as a result of non-compliance with supply chain management (SCM) regulations.

We note that the Internal Control Unit has implemented a revised Unauthorised Irregular Fruitless Wasteful (UIFW) expenditure process to account for UIFW in an appropriate manner. Aligned to this is a reduction strategy which was approved by Council and submitted to National Treasury. This strategy will have the effect of fast tracking the UIFW expenditure to MPAC to determine write-off/recovery of the expenditure. In addition, all UIFW matters are considered acts of financial misconduct and will be referred to the Disciplinary Misconduct Board to advise on the Disciplinary processes to be implemented through Council.

The Office of the City Manager, we note, is working closely with the Human Capital Unit to ensure that action is taken in line with the City Integrity & Investigation Unit's recommendations. Furthermore, the Office does not only ensure implementation of the recommendations for the Office but independently scrutinises reports for the City Manager's attention, to check if processes were followed in terms of applicable legislation.

Having noted these interventions

#### COMMITTEE RECOMMENDS:

That Council notes the Municipal Public Accounts Committee will continue to monitor irregular expenditure and ensure that it is processed in terms of section 32 of the Municipal Finance Management Act.

1.3 Consequence Management

The Auditor-General reported that proceedings were not instituted by the council where the report of independent investigators confirmed the financial misconduct by a senior manager, as required by disciplinary regulation 5(6) for senior managers and municipal regulation 6(8) on financial misconduct procedures and criminal proceedings. The Auditor-General reported that appropriate action was not taken against officials of the municipality where investigations proved financial misconduct, as required by Section 171(4)(b) of the MFMA and municipal regulation 6(8) on financial misconduct procedures and criminal proceedings.

We engaged with Management on the current status of consequence management within the municipality on its plans to address the matter more effectively. In our engagement, Management advised of the following additional measures that it was instituting to address consequence management in the municipality:

- City Manager Circular to be issued to direct Unit Heads to conclude disciplinary hearings timeously.
- Introduction of an electronic monitoring schedule.
- Funding and capacitating the Employment Relations Department.
- Introduction of consequence management implementation in performance agreements for Heads and Deputy City Managers.
- Implementation of an observation program in disciplinary process to be coordinated by the Employment Relations Department.
- Training of Human Resource Officers and other officials on the disciplinary procedure collective agreement including refresher training.
- Reinforcement of Financial Misconduct Disciplinary Board Terms of Reference, where Heads of Units must appear before the Board to explain delays in finalising disciplinary matters.
- Board to seek intervention from Provincial and National Treasuries in cases of financial misconduct if consequence management is not implemented timeously.
- Use of SALGA Panel in instances of intimidation of Presiding Officers/Prosecutors.
- Central point for implementing consequence management in respect of officials from different Units implicated in one investigation report.
- Implementation of rotation system for Executive to chair disciplinary hearings.
- Finalise the supply chain management process for the appointment of service providers to augment the capacity of the City Integrity & Investigations Unit.

We are hopeful that these additional mitigation measures will go a long way in enforcing consequence management within the municipality,

Accordingly,

COMMITTEE RECOMMENDS:

That Council notes that the Municipal Public Accounts Committee will continue to monitor the implementation of consequence management and advise Council of progress in this regard.

1.4 Procurement and Contract Management

The Auditor-General reported that some of the goods and services of a transaction value above R200 000 were procured without inviting competitive bids, as required by SCM regulation 19(a). Deviations were approved by the accounting officer even though it was not impractical to invite competitive bids, as required by SCM regulation 36(1). Similar non-compliance was also reported in the prior year. The Auditor-General reported some of

the invitations for competitive bidding were not advertised for a required minimum period of 30 days, as required by SCM regulation 22(1).

The Head: SCM at our engagement with him on the corrective action to address gaps in controls as reported by the Auditor-General above, alluded to various interventions in this regard which are summarised below:

- A root cause analysis for irregular expenditure has been conducted and action plans to address the root causes is underway.
- Probity checklists and process flows to guide departments on invoking the use of Section 36 will be prepared to assist them in addressing the specific elements of S36 to eliminate the use of S36 as a result of poor planning and ensure uniformity and consistency in the review and use of S36.
- A contract management framework will be developed to ensure guidelines and scope for contract management within the City. Contract management standard operating procedures will also be prepared.
- The contract management cycle will be automated to ensure enhanced controls over the cycle.
- Notice was issued to the Bid Specification Committee to ensure compliance with SCM regulation 22(1). The Supply Chain Management Policy is being reviewed to include procedures for advertising periods for task orders, as some of the matters reported by the AG were task orders.

As we support the proposed actions

#### COMMITTEE RECOMMENDS:

That Council notes that the Municipal Public Accounts Committee will monitor the implementation of the corrective actions to address the procurement and contract management findings by the Auditor-General; through monthly progress reports by the Head: Supply Chain Management.

#### 1.5 Internal Control Deficiencies

The Auditor-General reported that the accounting officer and management did not ensure that systems of internal control were adequately implemented and monitored to ensure compliance with key legislation relating to expenditure management, consequence management as well as procurement and contract management. In addition, management did not ensure that proper review controls were in place to facilitate accurate and complete reporting in the annual financial statements. The Auditor-General reported that management did not implement proper record keeping to ensure that information supporting certain achievements in the annual performance reports as well compliance with SCM legislation is maintained. As a result, material findings were identified during the audit process.

We have noted the following actions being taken to strengthen internal controls:

- The city is committed to a clean audit and has adopted a Clean Administration & Clean Audit framework. An audit action plan is being finalised to address all audit issues raised.

- The implementation of action plans to correct these audit issues are closely monitored and reported to the audit committee, COGTA and National Treasury on a quarterly basis. The Mayor personally deals with these issues with the administrative leadership.

Having noted the measures to address the findings

**COMMITTEE RECOMMENDS:**

That Council notes that the Municipal Public Accounts Committee will monitor the implementation of the corrective actions to address the internal control deficiencies identified by the Auditor-General; through monthly progress reports by the Deputy Head: Internal Control & Business Systems.

**1.6 Material Irregularities in Progress**

The Auditor-General identified material irregularities during the audit and notified the accounting officer of these, as required by material irregularity regulation 3(2). By the date of this auditor's report, the responses of the accounting officer were not yet due for some material irregularities and for the remainder, Auditor-General had not yet completed the process of evaluating the responses from the accounting officer. These material irregularities will be included in the next year's auditor's report.

In response to the identified material irregularities (MIs), management advised as follows:

- The city is committed to a clean audit and has adopted a Clean Administration & Clean Audit framework.
- Responses will be provided as and when the MI is received. MIs received have been responded to.
- Root causes will be assessed and controls enhanced to reduce MIs.
- Further investigations and consequence management will be implemented, where required; and
- Reported to MPAC and the Financial Misconduct Board.

**COMMITTEE RECOMMENDS:**

That Council notes that the Municipal Public Accounts will review these material irregularities in the next audit and ensure that the necessary corrective actions are instituted by management.

**2. MATERIAL DEBT IMPAIRMENTS, LOSSES AND WRITE-OFFS**

**Provision for Bad Debts**

As disclosed in note 6 to the consolidated and separate financial statements, the municipality recognised a provision for bad debts of R8,05 billion (2019-20: R6,10 billion) on consumer debtors, as the recoverability of these amounts was doubtful.

**Write-off of Debtors**

As disclosed in note 51 to the consolidated and separate financial statements, material losses of R316,2 million (2019-20: R1,63 billion) were incurred by the municipality due to write offs on irrecoverable debts relating to rates, services, housing and sundry debtors.

We scheduled an engagement with Chief Financial Officer and the Head: Revenue Management to establish how management intends to arrest the escalating debt and losses.

We have asked the Chief Financial Officer to provide us with a composite presentation on the debt owed by the Ingonyama Trust so that we can understand the issues surrounding the historical debt and how such issues could possibly be resolved. Furthermore, we have requested him to establish the impact of historical debt and dormant accounts inherited from erstwhile local authorities on the municipality's debt book.

As we are of the view that the Finance, Security and Emergency Services Committee also needs to closely monitor the rising debt and losses as part of its oversight role,

**COMMITTEE RECOMMENDS:**

- 2.2.1 That the Finance, Security & Emergency Services Committee ensure effective oversight of the measures proposed by the Revenue Management Unit to address the material debt impairments, losses and write-offs.
- 2.2.2 That the Finance, Security & Emergency Services Committee submit quarterly progress reports to the Municipal Public Accounts Committees on the reduction of the material debt impairments, losses and write-offs.

**2.3 Material Water Losses**

As disclosed in note 51 to the consolidated and separate financial statements, material water losses of 188,09 million kilolitres (2019-20: 185,19 million kilolitres) were incurred by the municipality, which resulted in revenue losses of R1,75 billion (2019-20: R1,72 billion). These losses arose from ageing and deteriorating infrastructure as well as illegal connections.

We engaged with Head: Water & Sanitation Unit on the huge water losses and the actions his Unit is undertaking to reduce the water losses. The Head presented a progress report on the non-revenue water reduction interventions.

However, these interventions are the same measures that the Unit has been implementing without them delivering the desired outcome. We therefore doubt the effectiveness of the said interventions.

We note that the Unit supplies bulk and reticulated water to areas which do not have a spatial development plan; these being outside of the urban edge. The difficulty in metering households that receive reticulated water is also noted. Furthermore, all the water that is consumed without passing through a meter is categorised as non-revenue water; which accounts for a big portion of the non-revenue water.

The Head has also shared the financial constraints which prevent the Unit from attending to the aging water infrastructure. This being another contributory factor to the non-revenue water which is seen in the frequent water leaks and burst pipes.

Urgent action is required to address these challenges which are impacting on the Unit's ability to ensure continued water supply to its customers.

Therefore,

**COMMITTEE RECOMMENDS:**

- 2.3.1 That the Human Settlements & Infrastructure Committee ensure effective oversight of the measures proposed by the Electricity Unit to address the astronomical water losses.

- 2.3.2 That the Human Settlements & Infrastructure Committee submit quarterly progress reports to the Municipal Public Accounts Committees on the reduction of the water losses.
- 2.3.3 That the Water & Sanitation Unit investigate the possibility of deploying additional human resources and utilising technology to respond speedily to illegal connections, water leaks and burst pipes; which are contributing to the high water losses.
- 2.3.4 That the City Manager consider including an appropriately weighted key performance indicator in the performance agreements of all senior management responsible for the reduction of water losses; with the non-payment of performance bonuses should the target for the financial not be achieved.

2.4 Material Electricity Losses

As disclosed in note 51 to the consolidated and separate financial statements, material electricity losses of 1,22 billion kilowatt hours (2019-20: 811,47 million kilowatt hours) were incurred by the municipality, which resulted in revenue losses of R1,22 billion (2019-20: R762 million). These losses arose as a result of transmission and distribution losses as well as illegal connections.

We engaged with the Head: Electricity who attributed the increase in losses to three main factors, namely:

- Non-reading of meters from April to June 2020; which resulted in the estimation of consumption and credits in the new financial year (2020/21) as most businesses had been closed during this period. This then affected the calculation of losses.
- Increased theft of electricity due to the socio-economic impact of the Covid-19 pandemic.
- The moratorium on disconnections in response to the Covid-19 pandemic.

The Unit is hoping that the following measures will go a long way in reducing the increasing losses:

- The consistent meter readings are expected to stabilise the electricity loss calculation and resolve the anomaly in the reporting system.
- An iterative and lengthy process of interrogating the reporting systems.
- Increase meter sweep operations to identify and rectify meters that have been bypassed or tampered with.

Therefore,

**COMMITTEE RECOMMENDS:**

- 2.4.1 That the Human Settlements & Infrastructure Committee ensure effective oversight of the measures proposed by the Electricity Unit to address the high electricity losses.
- 2.4.2 That the Human Settlements & Infrastructure Committee submit quarterly progress reports to the Municipal Public Accounts Committees on the reduction of the electricity losses.

3. ANNUAL PERFORMANCE REPORT

3.1 Material Findings and Adjustment of Material Misstatements

3.1.1 Material Findings on Various Indicators



The Auditor-General was unable to obtain sufficient appropriate audit evidence for the reported achievements of 2 of the 55 indicators relating to this objective. This was due 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.5	WS3.11 Percentage of Complaints/Callouts responded to within 24 hours (sanitation/wastewater)	40%
3A.6	WS3.21 Percentage of Complaints/Callouts responded to within 24 hours (water)	62%

We engaged with the Head: Water & Sanitation who informed us that the new system will provide the required evidence. As this system is managed by the Head: Sizakala Centres as part of the integration of the municipality's call centres,

#### COMMITTEE RECOMMENDS:

That Council notes that a presentation will be provided by the Head: Sizakala Centres on the integration of Customer Call Centres and the ability of the new Huawei Call Centre Management System to produce the necessary audit evidence required by the Auditor General to substantiate response times to complaints/callouts. The Head: Electricity and Head: Water and Sanitation be in attendance when this presentation is delivered; to enable them to provide the users' perspective of the functionality of the system.

#### 3.1.2 Adjustment of Material Misstatements

The Auditor-General identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information of plan 3 – creating a quality living environment.

As management subsequently corrected only some of the misstatements, the Auditor-General raised material findings on the usefulness and reliability of the reported performance information. Those that were not corrected are included in the basis for qualified opinion paragraph.

Management advises that the Municipality as part of its Performance Monitoring and Evaluation (PME) planned enhancements has introduced performance evidence verification processes to undertake performance validation on quarterly basis before the information is submitted to the Internal Audit for further auditing. This will assist in ensuring the accuracy and completeness of performance information reported.

#### COMMITTEE RECOMMENDS:

That Council notes that the Municipal Public Accounts Committee will monitor the effectiveness of these verification processes and their ability to ensure the accuracy and completeness of performance information reported during its quarterly reviews of the Service Delivery & Budget Implementation Plan (SDBIP).

<b>AUDITOR GENERAL FINDINGS: TRACKING OF ACTION PLANS STATUS 2020/2021 AS AT 2022-02-28</b>					
<b>UNIT</b>	<b>RESOLVED</b>	<b>IN PROGRESS</b>	<b>UNRESOLVED</b>	<b>TOTAL</b>	<b>RESPONSIBLE HEADS/OFFICIALS</b>
CIU	-	1	-	1	Mbuso Ngcobo
Engineering	-	2	-	2	Greg Evans
ETA	-	2	2	4	Thami Manyathi
Expenditure	-	5	-	5	Yogeeta Rayan
Housing	-	1	-	1	Lawrence Pato
HR	3	2	-	5	Kim Makhathini / Reggie Mkhize
Insurance & Investment	-	3	-	3	Sibonelo Mbele
Internal Control	1	1	-	2	Similo Mbongwe
IT	-	26	-	26	Robert Dlamini
City Manager's Office	-	1	-	1	Mazo Maphumulo
Parks	-	-	2	2	Sinothi Thabethe / Mduduzi Xakaza
PME	-	1	-	1	Nirmala Govender
SCM	3	8	-	11	Andre Petersen
Solid Waste	-	-	1	1	Raymond Rampesad
Water and Sanitation	-	6	1	7	Ednick Msweli
<b>TOTAL</b>	<b>7</b>	<b>59</b>	<b>6</b>	<b>72</b>	

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

The recommendations of the Municipal Public Accounts Committee Report for the Unauthorised, Irregular Fruitless and Wasteful Expenditure (UIFW) Investigated for the Quarter ended 31 March 2022 as contained in the Council Agenda (2022-06-07), were **ADOPTED.**

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

**TO: COUNCIL**

## **UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE (UIFW) INVESTIGATED FOR THE QUARTER ENDED 31 MARCH 2022**

### **BACKGROUND**

Section 32(2) of the MFMA provides that a Municipality must recover UIFW expenditure, except where the unauthorised expenditure is regularised through an adjustments budget, or where the UIFW 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:

- Reports were prepared by the departments that incurred irregular expenditure after investigations by the said departments. The reports disclosed the deviation from Supply Chain Management Policy, the reasons for the deviation and the value of the expenditure.
- The reports 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 each 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

Cumulative UIFW expenditure totaling **R201,947,184.72** (Two hundred and one million nine hundred and forty-seven thousand, one hundred and eighty-four rands and seventy-two cents) was identified as at 31<sup>st</sup> March 2022 by various sources namely:

Source	Annexure	Amount
Auditor General South Africa	A	R69,800,919.37
Internally identified by Internal Control Processes	B	R131,643,486.73
City Integrity & Investigations Unit Investigations	C	R451,178.62
Internal Audit Unit	D	R51,600.00
<b>TOTAL</b>		<b>R201,947,184.72</b>

Furthermore, of the cumulative UIFW incurred, an amount of **R451,178.62** (four hundred and fifty-one thousand one hundred and seventy-eight rands and sixty-two cents) was deemed recoverable as a result of two investigations undertaken by the City Integrity and Investigations Unit.

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

Having duly considered and deliberated on the UIFW expenditure concerned,

#### COMMITTEE RECOMMENDS:

- 1.1 That in compliance with Section 32(2) of the Municipal Finance Management Act (MFMA), irregular, fruitless and wasteful expenditure totaling **R201,496,006.10** (two hundred and one million, four hundred and ninety-six thousand, six rands and ten cents) as detailed in “**Annexures A, B & D** of this report be certified as irrecoverable and written-off by Council based on the outcomes of the investigations of such expenditure.
- 1.2 That in compliance with Section 32(2) of the Municipal Finance Management Act (MFMA), fruitless and wasteful expenditure totaling **R451,178.62** (four hundred and fifty-one thousand, one hundred and seventy-eight rands and sixty-two cents) as detailed in **Annexure C** of this report be recovered from the relevant official or former official of the Municipality.

- 1.3 That it be noted that any consequence management recommendations will be dealt with in accordance with the council policy regarding financial misconduct and oversight by the Disciplinary Board for Financial Misconduct.

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## NOTICES OF MOTION IN TERMS OF SECTION 18 OF THE RULES OF ORDER

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1. URGENT NOTICE OF MOTION: PROPOSED BY COUNCILLOR MS NKOSI AND SECONDED BY COUNCILLOR J ANNIPEN: THE ESTABLISHMENT OF A TEMPORARY MULTI-PARTY OVERSIGHT COMMITTEE TO DEAL WITH DISASTER MANAGEMENT AND RECOVERY MATTERS (25/1/3/R)

Motivation for an Urgent Motion:

Mr. Speaker, the events of the recent past, which include the April 2022 floods and torrential down-pours of May 2022, have made apparent that there is a need for a multi-party political oversight committee to be formed to undertake the management of the disaster within eThekweni Municipality. Mr. Speaker you aware that this council has an Executive Council and not an Executive Mayor, media reports recently suggest that all activity which relates to the management of the disaster which has paved eThekweni is being single handled and maneuvered by his Worship the Mayor, Cllr Mxolisi Kaunda. It is a clear indication of a political agenda and the IFP is therefore recommending that temporally multi-party oversight committee be installed to prevent any maladministration or abuse of resources, which maybe received from donors locally or abroad. In view of the fact that many of these activities mentioned above have only surfaced in a media within the last 24 to 48 hours. The IFP has not had sufficient time to submit an ordinary notice of motion in this regard and therefore demit needful and necessary to table this urgent notice of motion and we trust that you will oblige giving the Council an opportunity to deal deliberately with this matter and come up with the conclusive decision.

This Council noting that:

The recent floods of April 2022 and the torrential down-pours of May 2022 have caused immerse damage to municipal infrastructure and private property of residents within the city.

FURTHER NOTING, the many immediate actions required by the city WRT receiving of donations and sponsorships as well as oversight visits to affected areas conducted by members of cabinet and the state president.

That Executive Committee urgently consider the establishment of a temporary Multi-Party Oversight Committee which will be responsible for dealing with disaster management and recovery matters as mentioned above for the purposes of transparency and accountability.

**CARRIED.**

2. NOTICE OF MOTION: PROPOSED BY COUNCILLOR J ANNIPEN AND  
SECONDED BY COUNCILLOR J NAIDOO: ETHEKWINI SCHOOLS IN  
ARREARS WITH UTILITY ACCOUNTS (7/6/3/1)

This Council noting that:

Some 911 eThekweni Schools are in areas with utility accounts and risk disconnection.

Schools have rung-up debt due to infrastructural dysfunctions the Department of Education and Public Works failed to repair causing exorbitant bills. The lockdown impacted on parent's ability to pay and schools ability to recover school fees.

Further noting the debt recovery policy requires government departments to levy a 10% deposit to enter into agreements to pay off debt.

This Council resolves that Executive Committee urgently consider the following and report its findings to Council:

1. Waive the 10% deposit for schools making payments arrangements.
2. Allow schools to sign an indemnity, suspending disconnections so that such agreements are signed within 14 days.
3. Extend the payment period from 36 to 60 months, waiving interest charges.
4. Provide a 50% discount off respective interest to schools keeping commitments for 24 consecutive months.

**CARRIED.**

3. NOTICE OF MOTION: PROPOSED BY COUNCILLOR S BHANPRAKASH AND  
SECONDED BY COUNCILLOR J ANNIPEN: DISCONNECTION OF  
MUNICIPAL SERVICES FOR INDIGENT HOMEOWNERS (7/2/2)

This Council notes:

The recent decision to update the Indigent Homeowners Register to eThekweni Municipality.

Further noting that the protracted delays in processing Indigent Support Applications due to insufficient human resources i.e., social workers, OSS staff and other logistical impediments can often lead to deserving candidates having their services disconnected, resulting in the compromise of human dignity and access to basic human rights such as water and sanitation.

This Council resolves that Executive Committee consider the following and report back to Council:

To immediately implement a moratorium on all disconnections for individuals who are awaiting social service interventions, equipment supply and processing of applications by City Officials so that residents are not subjected to indignity and demoralization.

**CARRIED.**

4. NOTICE OF MOTION: PROPOSED BY COUNCILLOR J NAIDOO AND  
SECONDED BY COUNCILLOR MS NKOSI: REVERSE HISTORICAL DEBT  
OWED BY INGONYAMA TRUST (7/1/4)

This Council notes:

Notwithstanding that objections to the proposed Rates Valuations Roll closes on the 29 April 2022 and that the Revenue Collections Department reflects a historical debt of R217,000,000,000.00 (Two Hundred and Seventeen Billion Rand) owed by the Ingonyama Development Trust.

Further noting the discrepancies in relation to the skewed process used to evaluate collective land and holdings of the said Trust, and

Further noting the possible expense which will be incurred by the City in the event of a legal challenge, given the precedents set by the 2013 on court ruling

This Council resolves that Executive Committee consider the following and report back to Council:

To reverse all charges owed by the Trust until a proper evaluation is conducted and concluded.

**CARRIED.**

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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. DISTRICT AIDS COUNCIL

Meeting held on : 2022-03-01

2. ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE

Meeting held on : 2022-04-25

3. EXECUTIVE COMMITTEE

Meetings held on : 2022-03-29

: 2022-03-31  
: 2022-04-22  
: 2022-04-26

4. LOCAL LABOUR FORUM: ECONOMIC DEVELOPMENT AND PLANNING  
COMMITTEE

Meeting held on : 2022-04-29

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**ITEMS FOR NOTING**

The Items for Noting, reflected on Pages 74 to 93 of the Agenda, pertaining to the items discussed and resolved at the Executive Committee level during the month of March and April 2022 were, **NOTED.**

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The meeting terminated at 20:02

CONFIRMED AT THE MEETING OF THE ETHEKWINI COUNCIL ON 2022-06-30.

SPEAKER