

No. 67

MINUTES

OF

ETHEKWINI MUNICIPAL COUNCIL

Meeting held Tuesday, 2024-06-25T11:00,
Inkosi Albert Luthuli International Conventional Centre, Durban.

PRESENT : Councillors TE Nyawose (Speaker), ZP Myeni (Deputy Mayor), A Abdul, J Annipen, A Beetge, T Biyela, JM Black, WJD Burne, MH Buthelezi, KPM Cele, SB Cele, SP Chebure, J Chetty, R Cloete, CB Dlamini, Z Dzanibe, SN Gabela, SG Gama, GB Gasa, DM Gcabashe, J Essop, BA Fortein, FO Gcabashe, S Govender, SV Govender, Y Govender, BR Gumede, S Gumede, MS Gwala, GJ Hegter, MM Hlengwa, NP Hlomuka, SD Hlongwa, F Ismail, MF Ismail, LBS Jali, DM James, M Johnson, MA Mgobhozi, K Khambule, MH Khan, NP Khawula, MN Khubisa, KNN Khubone, NL Khuzwayo, ZW Khuzwayo, A Kissoon, BG Kubheka, V Kunju, CJ Laing, SW Lushaba, M Lutchmen, WM Luthuli, ME Mabaso, RD Macpherson, MA Madlala, NI Madlala, RP Maharaj, S Maharaj, FN Majola, TG Makhanya, HS Makhathini, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, KT Mbhele, RP Mbonambi, SW Mcineka, BA Mchunu, JL Mchunu, NP Mchunu, RL McKenzie, FW Mdletshe, DL Mea, SP Mfeka, K Mhlaba, DPM Mhlongo, GN Mhlongo, SE Mhlongo, MB Mjadu, AZ Mkhize, KV Mkhize, MA Mkhize, ME Mkhize, MP Mkhize, NN Mkhize, NA Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, BR Mngadi, DF Mngadi, SV Mngadi, DP Mngoma, MR Mngonyama, TJ Mnguni, ZM Mncwango, BV Mngwengwe, S Mnyandu, T Mohamed, R Moses, ND Motseke, SB Mpanza, LI Msomi, DV Msweli, SSS Mthethwa, TD Mthethwa, TM Mthethwa, N Munien, OB Mvubu, SK Mzimela, BD Naidoo, J Naidoo, S Nala, NB Ndlela, AB Ndlovu, MF Ndlovu, PB Ndlovu, PC Ndlovu, NS Ndlovu, TB Ndlovu, V Ndlovu, SG Nene, TH Nene, SB Ngcongo, DB Ngubane, LE Nkomeni, MS Nkosi, DR Nowbuth, XM Nqweniso, DM Nsundwane, SH Ntombela, PC Ntshangase, NC Ntshayintshayi, N Ntuli, PB Ntuli, ZN Ntuli, B Nxumalo, MR Nxumalo, PH Nxumalo, T Nxumalo, NN Nyanisa, MV Nzimande-Madlala, AAK Paruk, AE Peterson, AS Phahla, BW Phewa, D Pillay, P Pillay, GDA Pullan, A Rampersad, R Rampersad, T Sabelo, S Sewshanker, A Shaheed, BA Shange, LP Shange, MG Shange, TE Shezi, IM Shinga, HP Shoji, JN Sibisi, KS Sibisi, WP Sibiya, LC Sikhakhane, BSB Sindane, EL Singh, J Singh, S Singh, PS Sishange, CN Sisoka, BS Sivetye, NI Sithole, EG Smith, AD Snyman, ZR Sokhabase, Z Solomon, I Syed, M Thusi, ME Thusi, BB Thusi, ZM Tshazela, NT Tyelinzima, JC Van den Berg, HM Van Der Ryst, NB Vilakazi, NI Webster, SM Windvogel, SV Xaba, NL Xulu, TV Xulu, T Xuma, NY Young, N Zondi, M Zondi, ON Zondi-Mthembu and TG Zungu.

ABSENT : Councillors M Brauteseth (Leave), G Govender, SR Madlala, SM Khanyile, SNC Khwela, X Mdlazi, NM Mhlongo, T Miya (Indisposed), E Mngadi, ZO Mnomiya, V Ncukana and BT Ntuli (Municipal business).

AMAKHOSI

PRESENT : Inkosi EB Shozi.

AMAKHOSI

ABSENT : Inkosi EB Mlaba and JJ Shangase.

OFFICIALS

PRESENT : Messrs/Mesdames Dr S Mnguni (Acting City Manager), M Mhlongo (Head: Legal & Compliance), S Mfingwana (Deputy Head: Legal & Compliance), BM Mhlongo (Deputy Head: Office of the Speaker), T Ndlovu (Senior Manager: Secretariat) and SC Kunene (Manager: Council Committees).

(At the commencement of the meeting 183 Councillors were present, comprising ANC - 79, DA - 47, EFF - 21, IFP - 16, ASA - 03, ABC - 02, ACC - 02, ACDP - 02, AIC - 01, ADEC - 00, APF - 00, ATM - 01, AL JAMA-AH - 01, DLC - 01, JEP - 01, KZNI - 01, MF - 01, MOSA - 00, NFP - 01, PFP - 00, PRM - 01, TA- 00, UIM - 01 and VF Plus - 01).

1. NOTICE CONVENING THE MEETING

The Acting City Manager, Dr S Mnguni, read the notice convening the meeting, as per the statutory requirement.

2. OPENING

The Speaker declared the meeting open at 11h31 and extended a warm welcome to Councillors, Traditional Leaders; Acting City Manager, Deputy City Managers, Head: Legal and Compliance, other Unit Heads and Members of the Administration. A special warm welcome was extended to Media and Members of the public viewing through social media live streaming.

3. AFRICAN UNION AND NATIONAL ANTHEM

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

4. OPPORTUNITY FOR PRAYER/MEDITATION

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

5. OFFICIAL ANNOUNCEMENTS

- 5.1 The South African Nation was congratulated for holding its seventh (07th) democratic election on 29 May 2024, and the newly elected 7th Democratic Government was also congratulated.
- 5.2 The Speaker reported that ten (10) erstwhile Council Members have resigned from the Municipal Council to take positions in the Provincial Legislature and the National Parliament respectively, and, on behalf of the Council, best wishes were extended for them to thrive in their new endeavours.
- 5.3 In commemorating the Youth Month, the Council continued singing praises of the 1976 Youth for their bravery fighting for justice in the education system. The theme for the 2024 celebration was “*Actively Embracing the Socio-economic Gains of our Democracy.*” Words of gratitude were then extended to the eThekweni Youth that participated in different celebratory activities planned this Month of June.
- 5.4 Reference was made to the devastating tornado disaster that ravaged in particular the area of Tongaat on Monday, 03 June 2024. Condolences were extended to the families of twelve (12) deceased residents, and empathy extended to the tornado disaster victims still trying to recover from this incident. The spirit of ubuntu displayed by various organizations and individuals, in certain extent, providing social relief to the tornado victims, was greatly appreciated.
- 5.5 Thereafter, Councillors were encouraged to conduct themselves with dignity and decency during the Council proceedings, and in compliance with the expectations in terms of Code of Conduct for Councillors. Whips of Committees were reminded to also assist to monitor behaviour of their fellow members. Emphasis being put in particular to limiting Councillor movements in and out of the venue during voting, as this leads to disagreements about the voting outcome.
- 5.6 Best wishes were extended to all Councillors who celebrated their birthdays in May and celebrating their birthdays in the month of June.

6. SPEAKER’S REPORT

It was noted that there was no Speaker’s Report for consideration in this meeting.

7. APPLICATIONS FOR LEAVE OF ABSENCE

RESOLVED:

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

COUNCILLORS

Councillor M Brauteseth	:	2024-06-25 (Personal Commitments)
Councillor MH Buthelezi	:	2024-06-25 (To leave at 14h00)
Councillor J Essop	:	2024-06-25 (To leave at 15h00)
Councillor G Govender	:	2024-06-25 (Personal Commitments)
Councillor M Khan	:	2024-06-25 (To leave at 13h00)

Councillor Z Khuzwayo	:	2024-06-25 (To leave at 16h00)
Councillor T Mahomed	:	2024-06-25 (To leave at 15h00)
Councillor X Mdlazi	:	2024-06-25 (To leave early)
Councillor K Mhlaba	:	2024-06-25 (Indisposed & to leave early)
Councillor T Miya	:	2024-06-25 (Personal Commitments)
Councillor BT Ntuli	:	2024-06-25 (Municipal Business)
Councillor P Pillay	:	2024-06-25 (To leave at 14h30)
Councillor A Shaheed	:	2024-06-25 (To leave at 15h00)
Councillor Z Solomon	:	2024-06-25 (To leave at 16h00)
Councillor I Syed	:	2024-06-25 (Indisposed & to leave at 13h45)

8.

DECLARATION OF INTEREST

Councillors S Singh, T Govender, J Black, Khuzwayo, Kubheka and R McKenzie respectively declared interest in respect of item 2.3 (Report on Councillors' Development Programme).

Given the above declarations, Councillor Madlala requested that Council be guided whether it was required for the Councillors in question to recuse themselves when the item was being considered. He further sought clarity if there was an obligation for a Councillor that has declared an interest to also provide an explanation on how one is conflicted on the matter.

In response and referring to Schedule 7 of the Councillors Code of Conduct, item 6.1(b), the Head: Legal and Compliance advised that when a Councillor had declared an interest on any matter contained in the agenda, it was expected that the Councillor should withdraw from the proceedings when that matter was being considered, unless the Council or Committee decides that the Councillor's direct or indirect interest on the matter is trivial or irrelevant.

Given the above response, mention was made that in view of the declarations made in previous meetings, Council was deprived of an opportunity to decide if the matter was of trivial or irrelevant nature as Councillors were not requested to explain nature of interest on the matter in question. It was thereafter suggested that going forward, any Councillor declaring an interest on the matter be requested to also provide clarity on the nature of the conflict.

In order to maintain consistency, the DA expressed that on previous occasions Councillors were not required to be recused when the matter in which they had declared was discussed. The ActionSA expressed that given the legal opinion, item 6.1 (b) of the Councillors Code of Conduct should be adhered to in Council meetings going forward.

With the Speaker having directed that the Councillors that had declared interest on Item 2.4 should elaborate on the nature of interest, Councillor Madlala elucidated that the item in question was a Councillor Development Programme undertaken through the Office of the Speaker. This programme was not undertaken by Councillors on their individual capacity but as part of Councillors empowerment programme and therefore, there was no requirement for recusal when this matter was considered.

Subsequently, the Speaker also ruled that based on the explanation provided, the Councillors concerned should not recuse themselves when the matter is being considered.

9. CONFIRMATION OF MINUTES

It was noted that as per the arrangement to only consider compliance matters, confirmation of minutes will not be dealt with in this meeting.

10. MATTERS ARISING

It was noted that there were no matters arising

11. QUESTIONS

It was noted that there were no questions for consideration at this meeting.

(The Deputy Mayor, Councillor ZP Myeni, presented First Report of the Executive Committee)

FIRST REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2024-04-23)

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

ABSENT : Executive Committee Members OB Mvubu and MS Nkosi (Both Personal Commitments Leave).

At this stage of the proceedings (12h07-12h26), the DA requested for a caucus, and this was duly granted.

1. REPORT OF THE FINANCE COMMITTEE: MEETING HELD 2024-04-17

(Page R1)

1.1 Request to Procure Vehicles for Security and Protection Services (8/3/1/3):
(Page 19: Finance Committee - Agenda 2024-04-17)

The fleet for the Security and Protection Services has exceeded its lifespan and due for replacement. Further, additional new vehicles are required to respond to operational demands. The availability of vehicles that are in good condition is crucial to respond to service delivery without interruptions. The demand for security and protection services has also increased in view of year 2024 being the year of the general elections. In view thereof, authority is requested to procure security and

protection services vehicles at an estimated amount of R25 Million. This procurement is considered significant to mitigate a risk associated with the shortage of vehicles, as well as unreliable vehicles due to unsatisfactory condition, thus interfering with the provision of swift security and protection services responses.

The DA and the EFF were not in support of this proposed procurement, citing lack of details in terms of:

- Not giving the costs breakdown in terms of the utilization of the R25 Million to procure vehicles
- Clear indication of the type and number of vehicles to be procured, as well suppliers earmarked
- Indication of users earmarked for the allocation of the vehicles to be procured

Further, the DA requested to be furnished with information regarding the current status of the security and protection services, which status should include the number of vehicles currently available; description; and the allocation protocol. The DA also considered the timing not appropriate given a number of challenges that the City is still facing arising from the storm damages, attention being drawn that certain roads remain damaged from the 2022 storm damages as well as the ongoing water challenges, including inadequate distribution of water tankers.

The timing factor also linked to the fact that there should have been proper planning in terms of budgeting for the vehicles rather than rushing the matter close to the elections and towards the end of the financial year. Regarding the vehicles procurement being also linked to the election period, it was also submitted that the elections are not relevant to the Municipality. On the other hand, the installation of blue lights for many people was considered unacceptable.

Whilst supporting the item, the VF Plus was also of the view that the required R25 million is considered exorbitant considering that the City has recently purchased fleet for the same Unit. Therefore, the request for the costs breakdown was also supported by the VF Plus.

Commenting on the matter, the ANC supported the proposed procurement, and considering this to be of a significant nature to ensure the safety aspects as well as achieving operational efficiency in responding to service delivery demands at the community level.

On the issue of blue lights installation, confirmation was given that this is done for selected vehicles allocated the political and the administrative leadership based on the safety assessment undertaken. The ANC also supported the principles of transparency and accountability, and therefore confirming that further information required on this matter will be provided.

Thereafter, with there being contrary views at the Support Committee level, the matter was put to the vote. With 21 Councillors present, the ANC (13) and the VF Plus (01) voted in favour of the recommendations, with the DA (06) and the EFF (01) voting against the matter.

During consideration at the Executive Committee level, the DA reiterated their inability to support the item in its current format as it lacked critical information to then understand the rationale behind the proposed procurement of the fleet in the midst of several other service delivery challenges that could be prioritized to resolve.

The ANC submitted its support for the proposed procurement, citing the importance to secure adequate and reliable fleet. Reference was made to a number of Councillors and officials that have lost their lives, in particular, during the elections period, thus a need to ensure adequacy of safety resources. Whilst acknowledging service delivery challenges, the attention was drawn to the fact that each Cluster and/or Unit has its own operational mandate and with specific activities arising therefrom being prioritized; incorporated into business plans and specific budget allocated for such. Therefore, dragging the service delivery challenges into this item was considered irrelevant.

Thereafter, the DA (03) then maintained its dissenting voice. The matter was then supported by the majority vote of the ANC (04) and the NFP (01).

Accordingly,

COMMITTEE RECOMMENDS:

- 1.1.1 That in view of the fleet of the Security and Protection Services having exceeded its lifespan and due for replacement, also shortage of fleet thus additional requirements, the Executive Committee approves and recommend to the Council the procurement of fleet under the Security and Protection Services, at an estimated value of R25 000 000.00 (Twenty-Five Million Rand), excluding VAT.
- 1.1.2 That, subject to the approval of .1, authority be granted for the Deputy City Manager: Finance to identify savings to make funds required available and thereafter include this in the final adjustment budget report.

At this stage of the proceedings (12h07-12h26), the DA requested a caucus, and it was duly granted. Reporting back from its caucus, the DA advised that further clarity on this item has been sought, and that responses have also been provided accordingly. The DA was then ready to contribute to the discussion of this matter.

Commenting on a separate matter, the ActionSA drew members attention to the fact that the Speaker will ordinarily introduce new Councillors that had joined the municipality. This being done when the Official Announcements were made or as part of the Speaker's Report. However, in this case it was observed that Councillor C Xaba, a new member representing the African National Congress and in attendance at this meeting has not been formally introduced. Clarity was further sought if the said Councillor was expected to vote on any matters contained in the Agenda when no formal introduction has been undertaken.

In response, the Speaker advised that introduction of new Councillors falls within his discretion. That he was going to attend to Councillor Xaba's introduction at the appropriate time.

Reverting to the substantive matter, the DA expressed concern that the City Fleet Unit has not yet submitted detailed report on the type of vehicles to be procured. Nevertheless, the procurement was supported for the sake of ensuring effective provision of service to the local community.

On the other hand, the EFF requested that consideration be given to deferring the item as more information on the type of vehicles to be procured is still required to assist Council to make an informed decision.

[In view of technical glitches experienced with audio equipment, the meeting was adjourned for approximately 10 minutes to allow the technical team to address this challenge]

At the resumption of the meeting, the ActionSA continued to raise the issue about Councillor Xaba not having been formally introduced to the Council. Joining the debate on the similar matter, the IFP stated that as a matter of procedure it was expected that the Speaker should have done this to form part of the Official Announcements.

In response, the Speaker clarified that a report relative to the replacement of the former Mayor Kaunda was presented at the Executive Committee and the said report was part of the items contained in the Council In-Committee Agenda. He thereafter introduced Councillor C Xaba who has been nominated to represent the ANC following a vacancy as a result of former Mayor Councillor Kaunda's recent resignation.

REFERENCE BACK

In terms of Rule 20 (1)(c) of the Rules of Order By-Law as amended, Councillor K Khambule, supported by Councillor H Khawula, moved for the report to be referred back to the Executive Committee to allow the City Fleet Unit to provide comprehensive details on the type of vehicles to be procured.

As some Councillors were not in support of the reference back, the matter was put to the vote. With 194 Councillors present, 28 Councillors (EFF-21, ActionSA - 03, AIC-01, ATM-01, KZNI-01 and TA-01) voted in support of the reference back, 161 Councillors (ANC-89, DA-47, IFP-16, ABC-02, DLC-01, ALJAMAH-01, JEP-01, MF-01, NFP-01, UIM-01 and VF PLUS-01) voted against the reference back and 5 Councillors (ACC-02, ACDP-02 and PRM-01) abstained.

Thereafter, the reference back was by the majority vote, **NOT CARRIED.**

Reverting back to the substantive matter, the ActionSA advised the matter will not be supported on their side in the absence of the Report giving breakdown of the type of vehicles to be procured and those to be dedicated for protection services. Meanwhile, the ACDP expressed concern that the Municipality appeared not prioritizing service delivery with the Council-approved budget and therefore also indicated non-support of this procurement.

Speaking on this matter, the ANC was of the view that issues of security is equally important as that of service delivery, with all efforts to be made to strengthen same. Mention being made that Municipal employees should not be subjected to utilizing vehicles that were not roadworthy in their course of duty. Whilst on the other hand even in the course of service delivery there were security threats that require swift response by protection services, hence, the importance to keep roadworthy fleet.

In support of this vehicle procurement, the NFP pointed out that the details contained in the report should be read taking into account with fleet challenges that have been ongoing for the longest time. It being also supported that a plan detailing vehicle allocation and the accountability thereof is important as part of oversight aspect for the said vehicles.

As some Councillors were not in support of the recommendations, the matter was put to a vote. With 199 Councillors present, 167 Councillors (ANC-90, DA-49, IFP-16, ABC-02, ACC-02, DLC-01, JEP-01, MF-01, NFP-01, PFP-01, PRM-01, UIM-01 and VF PLUS-01) voted in support of the recommendations and 32 Councillors (EFF-21, Action SA-03, ACDP-02, AIC-01, APF-01, ATM-01, ALJAMAH-01, KZNI-01 and TA-01) voted against the recommendations.

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

2. REPORT OF THE GOVERNANCE AND HUMAN RESOURCES COMMITTEE:
MEETING HELD ON 2024-04-18.

(Page R6)

2.1 Sundry Grant-In-Aid Distribution 2023/24 Financial Year (7/14/1):
(Page 32: Governance and Human Resources Committee - Agenda 2024-04-18)

The eThekweni Municipality has embarked on a process to tackle socio-economic challenges at the Ward level using Non-Profit Organisations (NPOs).

As such, Grant-In-Aid is provided for the NPOs to pursue programmes aligned to the government objectives. The Grant-In-Aid Policy regulates the process of funding the NPOs to achieve the objectives of the Council to ensure that the provision of services to the communities yield the desired impact and is conducted in a sustainable manner. A call for Grant-in-Aid applications was made and a large number of organisations responded. Following the necessary evaluations, certain organisations have been recommended to receive Grant-In-Aid funding.

Arrangements will be made to distribute grants to the recommended 108 beneficiaries that fit the following categories, as outlined in the Grant-In-Aid Policy:

- Early Childhood Development;
- Social Welfare;
- Sports; Arts and Culture;
- Economic Development;
- Skills Development; and
- Faith-Based Organisations involved in community development work

At the Executive Committee level, Members acknowledged the role played by the NGOs in the society to compliment government activities, and thus supporting the NGOs was commended. Whilst appreciation the complimentary role played by the NGOs, the DA also supported the allocation of funding, but submitted that hosting the event at such an exorbitant amount just to allocate grant funding is actually not necessary. That, such amount could have been further distributed to the NGOs to increase their grant. If the event is considered a crucial requirement, to then consider using Municipal-owned facilities.

In his capacity as Chairperson of the Governance and Human Resource Committee, Councillor Madlala elaborated that the Municipality subscribes to a principle of transparency and accountability. Therefore, the distribution of grant funding in the presence of stakeholders serves as portfolio of evidence. That the event goes beyond just distribution, but also serves as a networking session for the organizations to share best practices and knowledge sharing.

With the Committee being in support of the proposal,

COMMITTEE RECOMMENDS:

2.1.1 That Council approves the allocation of Grant-In-Aid funding in the total amount of R5 582 880.00 (Five Million Five Hundred and Eighty Two Thousand Eight Hundred and Eighty Rand) to be split amongst the number of 108 beneficiaries recommended and contained in Annexure A of the report by the Head: Community Participation and Action Support dated 2024-02-06, and with the beneficiaries categorised into Early Childhood Development; Social Welfare; Sports, Arts and Culture; Economic Development; Skills Development; and Faith-Based Organisations involved in community development work.

2.1.2 That subject to the adoption of .1 above, Council approves funding allocation in the amount of R208 000.00 (Two Hundred and Eight Thousand Rand) to cover the logistical arrangement pertaining to an event to be convened to officially distribute the grant funding, and the details of the event to be confirmed in consultation with the political leadership.

Financial Implications:

Details	Amount	Amount
Sundry grant awarded to organisations		R5 582 880
1 distribution event within eThekweni		R 208 000
Catering for 400 people @ R150 pp=R60 000 Catering for R100 people @R200 pp=R20 000 (Guests)	R80 000	
500-seater, 200-seater marquee with furniture, 100-seater marquee and stage =R43 000	R43 000	
Décor, set-up, tables with table clothes=R15 000	R15 000	
Transport 6 buses @R5 000 =R30 000	R30 000	
Sound & generator =R20 000	R20 000	
Entertainment & Artists=R20 000	R20 000	
TOTAL		R5 790 880

Vote number FC No: 2024/06/03

Details	Business Unit	Item	Fund	Costing	Project	Region	Amount
Sundry Grant-In-Aid	32301	25030.17	12120	0000	38870	0010	5 582 880
Catering	32301	11400	12120	0000	38870	0010	80000
Marquees, chairs, décor, tables clothes, tables	32301	18950-10	1210	0000	38870	0010	58 000
Hire of sound	32301	11760	12120	0000	38870	0010	20000

Details	Business Unit	Item	Fund	Costing	Project	Region	Amount
Artist & performers	32301	11330	12120	0000	38870	0010	20 000
Transport	32301	21805	12120	0000	38870	0010	30 000
TOTAL							R5 790 000

Whilst in support of the matter, the IFP sought clarity if the event as detailed in recommendation 2.1.2 has taken place. The ActionSA also shared similar sentiments regarding the distribution event as it was reported that it had already occurred whilst the Council is still to make a decision on this matter in this meeting. If this was the case, the view was that the recommendations be amended to reflect accurate information for the Council to decide accordingly. Mention being made that line departments are not expected to commence with implementation prior to the Council making a decision, in its capacity as the final decision-making body of the Municipality. That, this only happens in the event Rule 28 of the Rules of Order By-Law has been invoked for a particular matter.

The ANC then clarified that the Report was approved by the Governance and Human Resources Committee on 2024-04-17 and the Executive Committee on 2024-04-23 respectively. However, due to the postponement of the April Council meeting, it became impractical to obtain the Council decision and it being noted that a revised report should have been done at an administrative level. Given this, the ANC recommended that the report be withdrawn to allow the line department to submit a revised report addressing the aspect of the event that had already occurred.

Subsequently, the report was **WITHDRAWN** for Management to report differently since the event in question has already happened prior to the Council giving approval.

2.2

Request for Authority to Renew eThekweni Municipality's Membership with the South African Cities Network and the Signing of a Memorandum of Agreement (12/8/1):

(Page 96: Governance and Human Resources Committee - Agenda 2024-04-18)

EThekweni Municipality is a member of the South African Cities Network (SACN) established to encourage exchange of information; experience; and best practice on urban development and City management. The eThekweni Municipality as the beneficiary of the SACN is interested to continue its membership following the expiry of the agreement which was active in the 2022-23 financial year.

Authority is therefore sought to enter into a new agreement to govern the operations in the 2023-24 financial year. Renewing and retaining membership in the SACN requires funding in the amount of R5 000 000.00 (Five Million Rand).

Given the benefits as a result of subscribing to the SACN, and with a detailed report on the 2022-23 partnership outcomes being provided and contained in the Report by the City Manager dated 2024-03-02, the Committee supported membership renewal and therefore the signing of a new Memorandum of Agreement to this effect. The DA abstained on the matter at the Support Committee level. The item was then passed by a majority support.

With there being concurrence at the Executive Committee level,

COMMITTEE RECOMMENDS:

2.2.1 That Council approves continued membership of the eThekweni Municipality in the South African Cities Network (SACN) and the allocation of a membership subscription fee in the amount of R5 000 000.00 (Five Million Rand), with the signing of a new Memorandum of Agreement (MOA) to give effect to the services of the 2023-24 financial year which entail:

- (i) Research and Knowledge Sharing;
- (ii) Policy Advocacy;
- (iii) Capacity Building;
- (iv) Networking and Collaborations;
- (v) Data and Information Sharing;
- (vi) Urban Forums and Conferences;
- (vii) Technical Support; and
- (viii) Advancing Sustainable Development

2.2.2 That subject to the adoption of .1 above, authority be granted for the City Manager to, on behalf of eThekweni Municipality, enter into and sign an MOA between the eThekweni Municipality and the SACN, and with the Deputy City Manager: Governance and International Relations to then transfer to the SACN the membership fee in the amount of R5 000 000.00 (Five Million Rand), in line with the requirements of Section 67 of the Local Government: Municipal Finance Management Act No. 56 of 2003.

Financial implications:

Annual Contribution: 2023-24			R5 000 000.00		
Vote Number					
BU	Item and Sub	Fund	Costing	Project	Region
30003	25445.515	12120	0000	MRC01	0010

FC No.: 2024/12/14

Commencing the debate, the ActionSA expressed concern that the report does not seem to reflect benefits to be derived by the Municipality in renewing this Memorandum of Agreement. Meanwhile, the ANC was of the view that a number of benefits have been derived from this partnership, including, amongst others, knowledge and information sharing with other Municipalities; advocacy on municipal issues; and fostering benchmarking on solutions to address common challenges faced by local government.

As some Councillors were not in support of the recommendations, the matter was put to the vote. With 193 Councillors present (ANC-90, DA-48, EFF-18, IFP-16, ABC-02, ACC-01, ACDP-02, AIC-01, DLC-01, APF-01, ATM-01, JEP-01, KZNI-01, MF-01, NFP-01, PFP-01, PRM-01, TA-01, UIM-01 and VF PLUS-01) voted in support of the recommendations and 3 Councillors (ActionSA-03) abstained.

ADOPTED, by the majority vote.

2.3

Report on Councillors' Development Programme (11/1/3):

(Page 499: Governance and Human Resources Committee - Agenda 2024-04-18)

Members of the Democratic Alliance abstained at the Support Committee level, and the matter was unanimously supported at the Executive Committee level. Accordingly,

COMMITTEE RECOMMENDS:

That authority be granted for the Head: eThekweni Municipal Academy to incur expenditure in the amount of R1 100 000.00 (One Million One Hundred Thousand Rand) for Councillors' Development Programme involving twenty (20) Councillors over a period of two (2) years, with the amount to be paid upfront before the end of the current 2023-24 financial year, so that progress is made towards implementing two Development Training Programmes that would result in the Councillors obtaining Diploma in Public Management from Durban University of Technology and Diploma in Local Government accredited by the Local Government SETA.

Financial Implications

R1 100 000.00 (One Million One Hundred Thousand Rand); 2023-24 financial year; identified through savings.

In welcoming the report, the IFP and the ActionSA encouraged that there should be more of similar empowerment programmes and that Councillors should endeavor to further their studies when opportunities of this nature are introduced.

The ANC pointed out that the aspect of empowering Councillors is vital within local government as this enabled them to be in a better position to make informed decision given that the Municipal environment is highly legislated.

ADOPTED.

2.4

Proposed Intention to Facilitate China Learning Exchange Through a Memorandum of Understanding with Local Government Sector and Training Authority and Chinese Culture & International Education Centre (6/3/1):

(Page 523: Governance and Human Resources Committee - Agenda 2024-04-18)

Authority is sought to approve intention by the Municipality to facilitate partnership with the Local Government Sector and Training Authority (LGSETA) and the Chinese Culture and International Education, through a Memorandum of Understanding (MOU) to coordinate training and upskilling of the Municipal Employees, Small Business Owners, and Unemployed Youth.

eThekweni Municipality has been selected out of 54 KZN Municipalities to benefit from this partnership facilitated by the LGSETA and the Chinese Learning Education Exchange strategic partnership by participating in the South African Municipal Development Learning Exchange to China for a period of six (06) months from June to December 2024 through training and upskilling of ten (10) Municipal employees, (10) unemployed youth and (10) small business owners.

For unemployed youth, the targeted learning stream is e-commerce and online business, entrepreneurship skills and youth to be considered should meet the following criteria:

- Must be of the age below 35 years;
- Must be in possession of TVET Diploma, informed by N6 and 18 months internship; and

- Expected qualification focus areas should be Diploma or Degree in Business Management, Business Administration, Business Leadership, Commerce, Entrepreneurial Management, Marketing and Digital Marketing.

For the Municipal Employees (mid-level managers), the targeted learning stream is City infrastructure maintenance and repairs, in relation to the following service delivery areas:

- Water and sanitation
- Roads and transport
- Energy, including electricity and renewables
- Human settlements

Small Business Owners must be below the age of 35 years, have a registered and trading business, experience in running own business and have developed a comprehensive and quality Business Plan, the targeted learning stream is:

- E-Commerce and Online Business Skills
- Entrepreneurship Skills
- Industry Collaboration and Investment
- Tourism and Cultural Exchange and Collaborations
- Rural Development and Small Business Development

With the Committee being in support of the proposal,

COMMITTEE RECOMMENDS:

- 2.4.1 That the Municipality's intention of facilitating a partnership with the Local Government SETA and a Chinese Culture and International Education through a Memorandum of Understanding for coordinating training and upskilling of the Municipal employees, small business owners and unemployed youth, be accepted.
- 2.4.2 That the subsistence and travel allowance for internal employees be waived and that employees be given the same allowance of (R3 500.00 x 6 months) as other students so to avoid any conflict.
- 2.4.3 That authority be granted for the City Manager to, on behalf of eThekweni Municipality, enter into and sign a Memorandum of Understanding between the eThekweni Municipality, Local Government SETA and Chinese Culture and International Exchange Centre.

Financial Implications:

1. Costs/items to be covered by the funder:
 - International Airfare
 - Accommodation
 - Local transportation
 - Hospital Insurance
 - Orientation
 - Business visit and collaboration practice/operation at Chinese companies
 - Students' allowances at R3500 x 6 months
2. Costs/items to be covered by the Municipality:
 - Medical Check-up +/- (R14 000)
 - Passports +/- (R12 000)
 - Police Clearance
 - Travel from King Shaka to OR Tambo Airport for 30 delegates ± (R 180 000)
 - Allowances x 6 months for 10 employees
 - Any additional costs for travel for officials to Trade fairs

It should be noted that ordinarily when Municipal employees travel overseas, they get travel and subsistence allowance and that would amount to about R114 000.00 per employee for 6 months which will be unaffordable for the Municipality that is currently financially constrained and such exorbitant amounts were never budgeted for. It is highly recommended that the subsistence and travel allowance be waived for this exchange instead employees be given the same allowance (R3 500.00) as other students so that we also avoid any conflict among students, especially because these 10 employees will still be getting their salaries and all the costs will be covered whilst learning in China.

In support of the report, the ANC; IFP; and the ActionSA respectively, congratulated the Municipality for participating in this learning exchange programme. Indication was given that this initiative would assist to strengthen international relations and skills enhancement amongst others.

On the issue of the subsistence and travel allowance for internal employees being waived and the consultation with employees thereof, the Acting City Manager confirmed that employees have been consulted and were in agreement with the waiver.

ADOPTED.

3. REPORT OF THE ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE: MEETING HELD ON 2024-04-19.

(Page R12)

3.1 Request to Reprioritize Inkosi Albert Luthuli International Convention Centre 2023-24 Capital Budget (7/1/2/2 & 7/1/3/2):

(Page 1: Economic Development and Planning Committee - Agenda 2024-04-19)

The Municipal Council at its meeting of 13 July 2023 resolved to allocate an amount of R15 Million in the 2023-24 financial year for the Inkosi Albert Luthuli International Convention Centre to undertake the following capital projects:

- (a) Replacement of leaking roof in the Durban Exhibition Centre;
- (b) Upgrading the ICC operatable (partition walls);
- (c) Purchasing generators to mitigate loadshedding;
- (d) Cherry Picker; and
- (e) Railway station restaurant

The projects commenced accordingly in the previous financial year, but could not be completed by 30 June 2023. The entity is targeting completing and commissioning the remainder of the projects in the 2023/2024 financial year, considering their immediate priority to the entity. It should be noted that the proposed changes were approved by the Durban ICC Board.

The attention is drawn to the fact that of the five capital projects listed in the Council resolution, two of these projects being (i) Replacement of leaking roof in the Durban Exhibition Centre and (ii) Procurement of the generator, are at an advanced stage of the procurement process, with letters of award to be issued in the current financial year. The projects will then be undertaken over the current financial year and the next financial year.

The other projects earmarked relate to the Durban ICC air-conditioning system which appears to be malfunctioning and thus causing discomfort to customers. The DICC has since commissioned assessment to ascertain what repairs/upgrade/replacement is required. Work in this regard will be prioritized in the 2024/2025 financial year.

Given that some of the funded projects have not yet been completed, the entity is now requesting to reprioritize the capital budget previously approved by the Council to then accommodate other projects as listed below:

- Completion of the business lounge
- General facility capital upgrades
- Upgrade to terracotta/artists suites
- CCTV upgrade
- Durban ICC coffee shop upgrade,
- Durban Exhibition Centre upgrade project

It should be noted that there is no additional funding required in relation to the above project, but these will be accommodated in the capital budget of R15 million already approved by the Council.

With the Committee being in agreement given the sound rationale behind reprioritizing the capital budget,

COMMITTEE RECOMMENDS:

- 3.1.1 That Council notes that some of the capital projects previously approved to be undertaken by Inkosi Albert Luthuli International Convention Centre (ICC) have not yet been completed and thus the previous capital grant allocation of R15 000 000.00 (Fifteen Million Rand) has not been exhausted.
- 3.1.2 That, subject to .1 above, and in view of the ICC having other unfunded projects critical for the attractiveness of the ICC business, authority be granted for the entity to reprioritize the capital grant of R15 million to accommodate, in addition to the projects approved by the Council on 13 July 2023, the following projects for the entity to remain commercially competitive:
- (i) Completion of the business lounge
 - (ii) General facility capital upgrades
 - (iii) Upgrade to terracotta/artists suites
 - (iv) CCTV upgrade
 - (v) Durban ICC coffee shop upgrade
 - (vi) Durban Exhibition Centre upgrade project
- 3.1.3 That, as outlined in .2 above, Council notes there are no new financial implications as a result of the approval to accommodate the above new projects.

The ActionSA cautioned that Council should not allow budget reprioritization to be used as an instrument for fiscal dumping. They cited that the report reflected a list of new projects, including the renovations of the Coffee Shop and it was questionable why such renovations were categorized as new project when the Coffee Shop has always been in existence.

The ANC drew attention to the fact that the budget in question was already allocated previously to assist the ICC to implement various projects. That some of these projects have been completed, with some not yet started due to various factors. In this regard, there is no need to lose funds already allocated whilst there are other projects requiring funding within the same institution. On the other hand, it was noted that the ICC continued to contribute positively to the local economic growth and thus a need to support its projects.

ADOPTED, noting abstention by the Action SA.

3.2

Request for Authority to Repurpose and Reallocate Durban Marine Theme Park Allocated Budget and Request for Additional Budget for Entity to Remain a Going Concern (7/1/3/2):

(Page 8: Economic Development and Planning Committee - Supplementary Agenda 2024-04-19)

The Durban Marine Theme Park, trading as uShaka Marine World, has an existing agreement with SAAMBR (South African Marine Biological Research) to operate the Sea World and with funding thereof being provided by the entity. The funding is then provided by the eThekweni Municipality, as a grant to uShaka Marine World.

Accordingly, the Municipality, as per the Council approval of 13 July 2023, allocated an amount of R20 Million for the operations in the 2023-24 financial year. The entity, despite some reasonable progress having been made in the procurement process, some of the projects' cashflow will occur over multiple financial years, which means not all expenditure will be incurred in the current financial year. As a result, this will lead to under-expenditure on the capital expenditure grant for this year.

In view of the foregoing, authority is requested to repurpose the capital expenditure grant to be allocated for an operating expenditure of R6 000 000.00 (Six Million Rand). Also, the reclassification of expenditure allocated for maintenance as consumables. The reasons for this request are detailed below:

- **Dolphin Stadium Video Screen:**

The Dolphin Stadium video screen is an integral part of the Dolphin and Seal Shows visitor experience. This is a DMTP asset, but operated by SAAMBR as per its expertise in this function. The SAAMBR has managed to keep the video screen functional beyond its expected lifespan. However, this has now since become obsolete and thus an urgency to replace this equipment. An amount of R6 000 000.00 (Six Million Rand) is required for this purpose. This amount will then be taken from the R20 million already allocated by the Municipality.

- **Reclassification of Expenditure Allocated for Maintenance as Consumables:**

SAAMBR has requested a reallocation of R2 065 232.00 (Two Million and Sixty-Five Thousand Two Hundred and Thirty-Two Rand) from the repairs and maintenance grant to the operating grant within this financial year. This is not requesting additional funding, but to correct classification as it has since been discovered that some of the expenditure classified as repairs and maintenance should have actually been classified as consumables.

On the other hand, the uShaka Marine World also requests additional funding in the amount of R6 000 000.00 (Six Million Rand) to cover shortfall on the entrance fee increase. The entity strives to keep the annual entrance fee affordable. However, this is not possible as the percentage increase required is always higher and thus requiring the shortfall to be funded through secondary streams, which at this stage are inadequate. This is the reason for sourcing additional grant to make up for the shortfall. It has been discovered through global benchmarking and research that this approach is common amongst Cities where their key tourism attractions are concerned.

Given the detailed explanation, and the Committee being in support,

COMMITTEE RECOMMENDS:

- 3.2.1 That, with the Dolphin Stadium Video being declared obsolete and the urgency to replace such to maintain competitiveness, Council approves the reprioritization of grant funding to make available an amount of R6 000 000.00 (Six Million Rand) for the replacement of the Dolphin Stadium video screen and ancillary equipment.
- 3.2.2 That subject to the adoption of .1 above, Council approves the payment of R6 000 000.00 (Six Million Rand) to Durban Marine Theme Park (DMTP), on a reimbursable basis.
- 3.2.3 That Council approves additional funding of R6 000 000.00 (Six Million Rand) to cover shortfall on the entrance fee increase thus subsidizing this for affordability purposes and to ensure that Durban Marine Theme Park (DMTP) continues to trade as a going concern.
- 3.2.4 That Council approves the repurposing of R2 065 232.00 (Two Million and Sixty-Five Thousand Two Hundred and Thirty-Two Rand) from maintenance grant towards operations grant in order to fund consumables for the South African Association for Marine Biological Research (SAAMBR) and R6 000 000.00 (Six Million Rand) from capital to operations of the Durban Marine Theme Park (DMTP).
- 3.2.5 That subject to the adoption of .3 above, authority be granted for the Deputy City Manager: Finance to identify savings in the amount of R6 000 000.00 (Six Million Rand) in the current financial year and for payment to be made to Durban Marine Theme Park (DMTP) by 30 June 2024.

Financial Implications:

Council approved limits as represented in the report of the City Manager dated 2024-04-05, to the total value of R129 604 971 (One Hundred and Twenty-Nine Million Six Hundred and Four Thousand Nine Hundred and Seventy-One Rand). This report requires additional R6 000 000.00 (Six Million Rand), taking the revised total to R135 604 971.00 (One Hundred and Thirty-Five Million Six Hundred and Four Thousand Nine Hundred and Seventy-One Rand).

ADOPTED.

- 3.3 Request for Authority to Host 2024 Resurgence Conference (20/1/7/1):
(Page 14: Economic Development and Planning Committee - Supplementary Agenda 2024-04-19)

Authority is sought for eThekweni Municipality to host the 2024 Resurgence Conference at the Inkosi Albert Luthuli International Convention Centre from 18 to 21 July 2024.

The Resurgence Conference is a global business event aimed at highlighting the status of businesses in New York, Africa, America, and globally. It celebrates and promotes successful entrepreneurs within these communities while providing critical resources for those who need them most. This conference offers an unparalleled opportunity to discuss ways to strengthen local economies, create jobs and close racial wealth gaps. Under the theme “Moving the Needle Forward” this year’s conference seeks to establish trade relations and progressive investment talks between the government on twin sister city agenda, small business development and opening corridors of trade between Africa and the US for better trade i.e., imports/ exports agenda. Critical areas of business collaborations are particularly focused on the following sectors:

- Trade and Investment
- Destination Promotion and Tourism
- Meetings, Incentives, Conferences and Events
- Promotion of Arts and Culture
- Entrepreneurship, Education and Training
- Export opportunities (e.g., Agro-processing, Citrus, Natural Health-related products, etc.)

eThekweni Municipality is reputed for having identified through the United Nations Sustainable Development Goals (SDGs), and South Africa’s National Development Plan (NDP) a need for transformation of the social economy. Thus, it is important to identify mutual co-operation between cities to facilitate change particularly on areas of trade, market identification and exchange programmes for economic emancipation for the previously marginalized.

The programme will provide a unique opportunity for close interaction between investors, exporting companies and potential buyers to explore effective ways of forging partnerships and increasing trade and investment between South Africa, the United States and Africa. Targeted sectors include Agro-processing, Automotive, Chemicals, Entertainment, The Green Economy, Healthcare, ICT & Innovation, Infrastructure, Mining, Rail, Retail, Creative Industries and Petrochemicals and others. Furthermore, this conference will serve as a prelude to the official launch of South Africa – Africa and the United States Joint Business Initiatives, created with the objective to promote and strengthen commercial relations between the continent of Africa and the United States, with a particular focus on sustainability, trade and investment in Durban.

It was noted that the Resurgence Conference Durban aims to empower and benefit the following:

- SMMEs;
- Boost local GDP;
- Enhance the transport sector;
- Promote tourism;
- Create a positive impact on the economy while ensuring security and highlighting Durban's heritage sites;
- Master classes in townships;
- Provide valuable education and training opportunities;
- Fostering collaboration in diverse sectors like arts, culture, and export-oriented industries; and
- Envisions a multifaceted impact on both local and global business landscapes.

The Resurgence Durban conference is aimed at resuscitating the economic spin-offs for the city and the entire province through tailored activities and business networking such as:

- Exposure to international market which means international investment for eThekweni SMME's
- Opportunities for SMMEs and big companies – meaning access to markets.
- International investors from the Caribbean, Africa as well as America.
- Local SMMEs' exchange products with the counterparts from New York which is a biggest market in the world.
- Interactions with the likes of New York film office as well as New York Fashion Bureau will be an added advantage to help our Durban Business Fair to thrive into a real international product after its 25 years of existence.
- The conference earmarks subscribing to more than 100 Americans to come to Durban – this is a boost to local economy in terms of beds from hotels, hospitality at large and other institutions and local service providers that will benefit from direct trade, these include sectors such as transport, food & beverages and transport.
- We earmark creation of direct trade and mentorship between the like-minded businesses, especially the Business Fair beneficiaries whom can be linked directly with the similar businesses from the resurgence database to open international trade and this is a true resurgence of economy.
- Our SMMEs could benefit directly from association deals with their US counterparts that which could help them gain access to funding, access to capital and access to marketing.

Having noted the foregoing,

COMMITTEE RECOMMENDS:

- 3.3.1 That Council notes participation of eThekweni Municipality at the Resurgence Conference from 15 to 20 November 2023 in Harlem New York, United States of America, it being also noted that the outcome thereof has been comprehensively presented at the Support Committee level.
- 3.3.2 That Council approves the hosting of the Resurgence Conference from 18 to 21 July 2024 in Durban.
- 3.3.3 That, subject to the approval of .2 above, authority be granted for the Deputy City Manager: Economic Development and Planning to negotiate costs with The New York Christian Times to host the 2024 Resurgence Conference for the Deputy City Manager: Finance to then make the necessary provisions in the 2024-25 budget.
- 3.3.4 That, subject to the approval of .2 and .3 above, authority be granted for the City Manager to, on behalf of eThekweni Municipality, enter into and sign a Memorandum of Agreement with the New York Christian Times to agree on the terms and conditions to host the 2024 Resurgence Conference.
- 3.3.5 That, subject to the approval of .2 and .3 above, Council approves the 2024 Resurgence Conference Activation Plan as outlined below:
- i. **26 February 2024:** Confirm participation of Southern African Development Community (SADC) sister cities, fostering collaboration.

- ii. **20 March 2024:** Participation during International Women's Day 2024 Conference. The women economic empowerment engagement/ conference in Mpumalanga Main Magaba Hall and will feature both national and local speakers, along with political heads. Theme "inspire inclusion – forging women's economic equality" targeting women in business.
- iii. **24 March 2024:** Coordinate and host the Resurgence Conference Online Investment Summit (hybrid), to unpack City's offerings and programmes, identify alignment sectors with an objective of attracting global stakeholders. targeted sectors and topics shall include agriculture (goat and citrus farming), oceans economy (fisheries and tourism), infrastructure - property development/ inner city regeneration.
- iv. **April to June 2024:** Participate in Sister Cities Activation/s. This initiative will strengthen our ties with our sister cities and foster collaboration across borders for the Resurgence. Such activations to align with existing programmes within most sister cities and to be included will be Swaziland, Botswana, Mozambique/ Maputo, Zimbabwe/Bulawayo, Rwanda/Kigali, Namibia/ Windhoek, New York/Brooklyn, Los Angeles etc.
- v. **22 to 30 April 2024:** Facilitate and organize Durban Day in New York, emphasizing the celebration of 30 years of South African Democracy (to include New York/Brooklyn & Los Angeles experts).
- vi. **14 to 16 May 2024:** Participate during Africa Tourism Indaba 2024 through installation of Resurgence Conference Durban Activation Stand at with various activities and an invitation will be extended to representatives of our sister cities to participate.
This will present an excellent opportunity to showcase the Resurgence offerings on a broader platform, 3 days programme with various themed engagements; youth, women and entrepreneurship, investment opportunities.
- vii. **25 May 2024:** Africa Day & Month 2024 Celebrations. Webinar event during Africa day will be hosted by eThekweni Municipality, focusing on access to capital for investment and unlocking trade corridors.
- viii. **June 2024:** Youth Month 2024 Activities. A series of month-long activation activities targeting institutions of higher learning and TVET colleges within the KwaZulu-Natal Province, targeting local youth to inculcate the entrepreneurship culture. This will also include Durban July activations.
- ix. **10 July 2024:** Media briefing during the Mandela Month to unpack the Resurgence Conference Programme and activities to media community. The Resurgence Conference Durban and Exhibition, incorporating diverse programs in honour of Nelson Mandela's legacy.

Financial Implications:

The budget provision of R9 000 000.00 (Nine Million Rand) has been made in the 2023/2024 financial year for the activation program. The actual costs for the conference scheduled for the month of July 2024 are subject to ongoing negotiations with our New York counterparts and same will be confirmed as part of the 2024/2025 budget process, it being noted that the majority of the costs will be towards the utilisation of the Inkosi Albert Luthuli International Convention Centre.

PREVIOUS EVENTS OF A SIMILAR NATURE

Event Name	Year	Cost	Economic Impact	Jobs	Exhibitors
International Tourism Indaba	2023	R35 500 000.00	R451 546 283.00	863	Just under 1000
Africa Tourism Indaba	2023	R78 000 000.00	R304 000 000.00	250	More than 1000
Africa Tourism Indaba	2022	R41 500 000.00	R102 600 000.00	211	Just over 700
Intra-Africa Trade Fair	2021	R48 751 348.00	R385 706 759	828	Over 1100

PROJECTIONS OF THE ECONOMIC VALUE FOR HOSTING THE RESURGENCE CONFERENCE

DESCRIPTION	VALUES
Occupancy – Hotels and other accommodations average	90% Hotels and 70% overall occupancy
Total number of delegates	4 000
Total Spend	R 31, 000, 000.00
Contribution to City's GDP	R 80 000 000.00
Employment Opportunities	150
Industry buyers	500
Countries to attend the conference	5
Number of SMME's to benefit from conference	1000
Potential foreign direct investment	R100 000 000.00

The IFP welcomed the report, with officials being commended for putting together this remarkable programme. However, the ActionSA expressed concern that already there were activations being undertaken at an international level when the report was only being considered in this meeting. In that regard, they indicated that they will not support the report and further requested that this be referred back to the Executive Committee.

Meanwhile, the ANC indicated that this was significant for the Municipality to host such a conference. It being noted that the Municipality was going to benefit in terms of direct economic impact and that the conference would serve as a platform to share ideas on how to strengthen the economy and also foster interactions with potential investors.

REFERENCE BACK

In terms of Rule 20 (1)(c) of the Rules of Order By-Law as amended, Councillor B Kubheka, supported by Councillor Z Mncwango, moved for the report to be referred back to the Executive Committee.

As some Councillors were not in support of the reference back, the matter was put to a vote. With 189 Councillors present, 4 Councillors (Action SA-03 and ATM-01) voted in favour of the reference back and 185 Councillors (ANC-89, DA-49, EFF-19, IFP-13, ABC-02, ACC-02, ACDP-02, DLC-01, APF-01, JEP-01, MF-01, NFP-01, PFP-01, PRM-01, TA-01, UIM-01 and VF PLUS-01) voted against the reference back.

Thereafter, the reference back was by the majority vote, NOT CARRIED.

Reverting to the substantive motion to approve the recommendations, some Councillors were not in support of the recommendations, the matter was put to a vote. With 189 Councillor present (ANC-89, DA-49, EFF-19, IFP-13, ABC-02, ACC-01, ACDP-02, DLC-01, ATM-01, JEP-01, MF-01, NFP-01, PFP-01, PRM-01, T1-01, UIM-01 and VF PLUS-01) voted in support of the recommendations and 4 Councillors (Action SA-01 and APF-01) voted against the recommendations.

ADOPTED, by the majority vote.

3.4

Request for Authority to Review eThekweni Municipal Entities Remuneration Framework for Non-Executive Directors (4/5/1/1):

(Page 29: Economic Development and Planning Committee - Supplementary Agenda 2024-04-19)

Authority is sought to implement revised fees as outlined in the Remuneration Structure for Inkosi Albert Luthuli International Convention Centre (ICC) and Durban Marine Theme Park (DMTP) for a period commencing 2023-07-01. The Non-Executive Directors play an important role in the leadership of the entities and are critical to their success. This proposal will ensure that the Municipality is able to attract competent individuals when calls for nominations are undertaken.

The City is responsible for promoting sound governance of its Municipal Entities, i.e., uShaka Marine and the ICC. The Remuneration Framework recognizes that:

- Non-Executive Directors should be fairly remunerated, in line with the investment of skills, experience and effort required to assist Council in ensuring an effective management of the Municipal entities.
- The framework aims to provide for a fair and commensurate remuneration framework for the Non-Executive Directors of the Durban ICC and uShaka Marine within Council, in keeping with the complexity of the Municipal business.
- The fee structure comprises attendance fees for Chairpersons and Board Members and is deemed sufficient to cover incidental expenses incurred in the course of fulfilling their duties (these include, but are not limited to, telephone calls, internet bandwidth, printing, and travel by private vehicle).

The Board Members at uShaka Marine and the Durban ICC are the controlling mind of these entities and are critical to the success of these organisations, as determined by the quality of their leadership. In addition, the Board Members are required to ensure they meet a complex set of demands, including the strategic aims of the entity, mandate of the Municipal leaders, and the requirements of the Local Government: Municipal Systems Act, the Municipal Finance Management Act, and the King Code of Governance Principles for South Africa (King IV).

Current rates for uShaka Marine and the Durban ICC are outlined as follows:

	uShaka Marine	Durban ICC
Board Meetings		
• Chairperson	R21 393.00	R16,324.00
• Member	R10,711.00	R8,162.00
Sub-Committee – Finance and Risk Meetings		
• Chairperson	R9 738.00	R4,982.00
• Member	R6 492.00	R3,922.00
Other Sub-Committee Meetings (except Finance and Risk meetings)		
• Chairperson	R6,492.00	R4,982.00
• Member	R5 016.00	R3,922.00

At the Support Committee level, the Democratic Alliance abstained on the matter, and the other Political Parties present were in support thereof. With the Executive Committee also being in agreement,

COMMITTEE RECOMMENDS:

- 3.4.1 That Council approves the revised Remuneration Framework for Non-Executive Directors for the Municipal Entities, Inkosi Albert Luthuli International Convention Centre, and the Durban Marine Theme Park, to be implemented retrospectively with effect from 01 July 2023, and with the remuneration structure applicable for both entities being reflected in the table below:

Committees	Chair	Deputy Chairperson	Directors
Board Meetings	R21 400	R16 050	R10 720
Finance and Risk - uShaka / Finance, Risk and Compliance – DICC	R9 740	n/a	R6 500
Other Committees	R6 500	n/a	R5 020
Ad hoc fees per hour for the Chairperson of the Board (or for non-executive directors nominated by the Chairperson to attend on his/her behalf).	R2 010	n/a	n/a
Non-Executive Directors traveling to meetings from outside a 50km radius of both entities are compensated for their travel (as published by the National Department of Transport)			

- 3.4.2 That after the current remuneration for both entities were reviewed and noting the total revenue and asset value of both, and the anomalies within the current framework, that the remuneration structure be the same for both entities.
- 3.4.3 That the remuneration fees payable by Durban Marine Theme Park be used as the basis for both entities and be rounded off to the next ten rand and that it be implemented with effect from 01 July 2023.
- 3.4.4 That the Finance and Risk Committee attendees be compensated at a higher level.
- 3.4.5 That the Deputy Chairperson (Lead Independent Director) be compensated at a fee of twenty-five (25) per cent less than that of the Chairperson of the Board, as reflected in Table 2 above.

Commencing the debate, the DA mentioned that it was the Municipality's responsibility to ensure provision of sound governance to its entities and therefore expressed concern regarding the remuneration disparities between the Directors of the Durban Marine Theme Park and those of the ICC. In that regard, they proposed that the report be referred back to allow for the review of the remuneration for Directors of both entities and such review will allow for the remuneration to be placed in the same category and range.

An indication was given that the Directors of the Durban Marine Theme Park were remunerated well even though the Theme Park is not financially sustainable compared to the ICC, and the latter's Directors earning below its counterparts.

Joining the debate and in support, the IFP stated that the Directors for both entities have critical functions to oversee and improve business performance of these entities through offering strategic guidance in various issues. The proposed revised remuneration was considered to strengthen the capacity of these governance structures. The Directors were therefore called to ensure that operations at these entities, including effective financial management. It being further noted that the entities should avert any deviations from applicable supply chain management

processes. Emphasis was put on and emphasis was also made that the entities should be well marketed to contribute in improving the local economy.

Commenting on the matter, the ActionSA referred to some reported irregular activities that had occurred in ICC, with its Board having failed to take the necessary actions, in line with its mandate. Further, referred to the allegation of salary discrepancies for the ICC staff and therefore the proposed increase in the Board remuneration deemed unfair.

Concluding discussion, the ANC reminded the meeting that this is a Council-approved Remuneration Framework which is subjected to an annual review as per associated terms and conditions. That the framework recognizes expertise and skills required from the Board members.

REFERENCE BACK.

In terms of Rule 20 (1)(c) of the Rules of Order By-Law, as amended, Councillor GDA Pullan, seconded by Councillor E Smith moved for the report to be referred back to the Executive Committee to effect amendments thereby bridging identified remuneration disparities between the Board of ICC and DMTP.

As some Councillors were not in support of the reference back, the matter was put to the vote. With 188 Councillors present, 49 Councillors (DA-49) voted in favour of the reference back and 139 Councillors (ANC-90, EFF-19, IFP-13, Action SA-03, ABC-02, ACDP-02, APF-01, ATM-01, JEP-01, MF-01, NFP-01, PFP-01, PRM-01, TA-01, UIM-01 and VF PLUS-01) voted against the reference back.

NOT CARRIED

Reverting to the substantive motion to approve the recommendations, Some Councillors were not in support of the recommendations, the matter was put to a vote. With 188 Councillors present, 179 Councillors (ANC-89, DA-49, IFP-14, ABC-02, ACDP-02, APF-01, ATM-01, JEP-01, MF-01, NFP-01, PFP-01, PRM-01, TA-01, UIM-01 and VF PLUS-01) voted in support of the recommendations, 3 Councillors (Action SA-03) voted against the recommendations and 19 Councillors (EFF-19) abstained.

ADOPTED, by the majority vote.

At this stage of the proceedings (14h41-16h07) the meeting adjourned for lunch. The Speaker requested members to also use this time for caucus purposes for matters contained in the Supplementary Agenda that had been issued.

At the resumption of the meeting, the Speaker convened brief meeting with Political Party Whips. Thereafter, the outcome thereof was to adjourn the meeting by latest 18h30, and to reconvene in due course for the remainder of the items.

Proceeding with the Agenda items, the Speaker requested the extraction of the item on the filling of the vacancy in the Executive Committee from the Incommittee Agenda for this item to be discussed in the open meeting.

DIRECT EXCO REPORT

4. REQUEST TO APPROVE PREFERRED FINANCIAL INSTITUTIONS FOR LONG-TERM DEBT FINANCE OF R1.5 BILLION FOR CAPITAL PROJECTS (7/3/1/1/2)

(Page 19)

It will be recalled that the Municipal Council approved loan borrowing as part of the capital budget approval in May 2023. Thereafter, negotiations commenced with the three (03) lenders, namely, the First Rand Bank Limited (FRBL), the Development Bank of Southern Africa (DBSA) and the International Finance Corporation (IFC).

As the negotiations progressed, the FRBL and the DBSA were earmarked for a R500 million each for a 10-year fixed interest rate loan, with the IFC being considered for a R500 million for a 15-year fixed interest rate loan. The public consultation was then conducted with the relevant stakeholders, and no objections were received in this regard. Also, the Provincial and the National Treasury did not object to the proposed loan.

The negotiations with the FRBL and the DBSA have since been concluded, hence the submission of the outcome before the Council for consideration and adoption. On the other hand, the negotiations with the IFC are still at an infant stage. The Council is therefore requested to focus on the R1 billion loan approval with the FRBL and the DBSA.

The Committee then supported the arrangements made, that of approving the R1 billion loan in the meantime while continuing with the negotiations with the IFC for the remainder of the R500 million. However, the DA abstained on the matter.

Accordingly, by the majority support,

COMMITTEE RECOMMENDS:

- 4.1 That authority be granted to approve the following lenders for a R1 billion long-term loan, and substantially based on the loan agreements with the:
 - (a) First Rand Bank Limited (FRBL) as a preferred lender of R500 Million for a 10-year fixed interest rate loan.
 - (b) Development Bank of Southern Africa (DBSA) as a preferred lender of R500 Million for a 10-year fixed interest rate loan.
- 4.2 That subject to the approval of .1 above, authority be granted for the City Manager to, on behalf of eThekweni Municipality, enter into and sign the loan agreement from the FRBL and the DBSA.
- 4.3 That subject to the approval of .1 and .2 above, authority be granted for the Chief Financial Officer to, on behalf of eThekweni Municipality, sign any and all documents, notices and requests for disbursement in relation to the loan agreements.
- 4.4 That Council notes that the negotiations with the International Finance Corporation have been concluded and an update on the progress on these negotiations will be provided to Council before end of current financial year 2023/2024.

Prior to Council considering the report, the Acting City Manager requested that an amendment be effected in respect of the word “First National Bank (FNB)” for it to be replaced with “First Rand Bank Limited” (FRBL). This was unanimously supported.

Commencing the debate, the DA alluded to the fact if the Municipality was able to effectively collect revenue, there would be no need to raise long-term debt. Uncollected debt at this stage was estimated at R32 billion, and this being considered huge compared to the state of debt in other Municipalities. On the other hand, the Municipality was also writing off huge amounts of Unauthorised, Irregular, Fruitless and Wasteful expenditure, this detrimentally affecting the Municipal finances. It being emphasized that if efforts were put to collecting debts, the revenue stream would be stabilised. In view of the foregoing, the DA recorded its dissent on the matter.

The IFP shared similar sentiments as those submitted by the DA in terms of uncollected debt and indication was given that they were still not in support of this item. Similarly, the ActionSA stated that the failure to collect debt affected the rate payers indirectly as they end up funding these loans and they appealed Councillors not to support this item.

The ANC reminded Councillors that this report was approved as part of the 2023-24 capital budget approval. That ongoing updates have been provided in each and every stage of compliance related thereto, thus culminating to the selection of financial institutions to fund the Municipality in this regard. The meeting was reminded that the loan is aimed at supplementing resources for capital projects, which support will come in handy as the City continues with infrastructure restoration given a series of disasters that resulted in infrastructural damages.

With regard to comparisons pertaining to the functioning and financial sustainability of different Municipalities, the attention was drawn to different socioeconomic factors of each and every Municipality. That this then dictate response mechanisms in a given time, hence, no comparisons could be made since each Municipality’s operations are impacted by different external factors.

In this regard the ANC supported lenders selected for the provision of loan approved by the Council previously.

As some Councillors were not in support of the recommendations, the matter was put to the vote. With 185 Councillors present, 96 Councillors (ANC-92, ABC-02, JEP-01 and NFP-01) voted in support of the recommendations, 87 Councillors (DA-43, EFF-21, IFP-14, Action SA-03, ACC-01, ACDP-01, APF-01, ATM-01, UIM-01 and VF PLUS-01) voted against the recommendations and 02 Councillors (MF-01 and PRM-01) abstained.

ADOPTED, by the majority vote.

5. SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN QUARTERLY
REPORT FOR A PERIOD ENDED 31 MARCH 2024 (2/10/1/1/9)

(Page 103)

The Executive Committee received a Service Delivery and Budget Implementation Plan (SDBIP) quarterly report for a period ended 31 March 2024. This was submitted in accordance with Section 52(d) of the Local Government: Municipal Finance Management Act No 56 of 2003, which requires the Mayor within 30 days after the end of each quarter to submit a report to Council on the implementation of the budget and the financial state of affairs of the Municipality.

Furthermore, in line with Circular No 13 of the Local Government: Municipal Finance Management Act No 56 of 2003, the performance against the outputs and goals of the SDBIP must be measured on a quarterly basis during the financial year.

Thereafter, the Performance Monitoring and Evaluation Unit is required to undertake verification of the performance reported and submit a verified quarter three report to the relevant structures.

Accordingly,

COMMITTEE RECOMMENDS:

That Council notes the Service Delivery and Budget Implementation Plan Report for Quarter 3 of the 2023/2024 financial year, submitted in line with Section 52 of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003 and the MFMA Circular No 13, which Report reflects the overall unaudited achievement of 82.70% for eThekweni Municipality, and the Municipal Entities, Inkosi Albert Luthuli International Convention Centre, trading as Durban ICC, recording 92,31% achievement, with the Durban Marine Park, trading as uShaka Marine World, recording 87,50%, and the breakdown per Cluster plans recorded below:

Plan No	Plan Name	Achievement Rate
1	Develop and sustain our Spatial, Natural and Built Environment	100.00%
2	Developing a Prosperous, Diverse Economy and Employment Creation	94.12%
3A	Creating a Quality Living Environment – Trading Services	74.29%
3B	Creating a Quality Living Environment	66.42%
3C	Creating a Quality Living Environment – Strategy Office	83.33%
4A	Fostering a Socially Equitable Environment	66.67%
4B	Fostering a Socially Equitable Environment	85.00%
5	Supporting organisational design, Human Capital Development and Management	88.24%
6A	A vibrant and creative City – the foundation for sustainability and social cohesion	83.33%
6B	A vibrant and creative City – the foundation for sustainability and social cohesion	100.00%
6C	A vibrant and creative City – the foundation for sustainability and social cohesion	0.00%
7A	Good Governance and Responsive Local Government	100.00%
7B	Good Governance and Responsive Local Government	100.00%

Plan No	Plan Name	Achievement Rate
7C	Good Governance and Responsive Local Government	100.00%
8	Financially Accountable and Sustainable City	77.75%
	Overall Achievement	82.70%

Plan Number	Plan Name	Achievement Rate
Plan 21	ICC	92.31%
Plan 21	DMTP	87.50%

NOTED.

6. MID-YEAR AMENDMENTS TO THE SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN FOR THE 2023/2024 FINANCIAL YEAR (2/10/1/1/9)
(Page 145)

It will be recalled that the amendments proposed for incorporation into the 2023-24 Service Delivery and Budget Implementation Plan (SDBIP) were published for public comments for a period of 21 days, and there were no comments received from the public. The proposed amendments were then submitted and adopted by the Council on 26 March 2024. The amendments resulted in the changes to the 2023-24 Integrated Development Plan.

Thereafter, the Department of Co-operative Governance and Traditional Affairs and the National Treasury indicated that the Metropolitan Municipalities are no longer required to report on the 2001 Local Government: Municipal Systems Act legislative indicators as the focus is now on National Treasury Circular 88 indicators. This then has resulted in further changes being implemented to remove the legislated indicators that are no longer relevant to the Municipality. Further, omissions identified in the original submission which could impact on the accuracy of the performance report of the Municipality have also been addressed.

At this stage of the proceedings, the DA abstained on the matter. With the other Political Parties present being in support,

COMMITTEE RECOMMENDS:

That Council approves addendum to the 2023-2024 mid-year amendments to the Service Delivery and Budget Implementation Plan, as a result of the removal of the legislated indicators no longer relevant to the Municipalities, and addressing omissions identified that could impact the accuracy of the performance report, and with the amendments being submitted in line with the requirements of Section 54(c) of the Local Government: Municipal Finance Management Act No. 56 of 2003, it being recorded that the amendments have been effected as a result of changes in the Integrated Development Plan for 2023/2024.

As some Councillors were not in support of the recommendations, the matter was put to the vote. With 184 Councillors present, 141 Councillors (ANC-92, EFF-21, IFP-14, Action SA-03, ABC-02, ACC-01, ACDP-01, APF-01, ATM-01, MF-01, NFP-01, PRM-01, UIM-01 and VF PLUS-01) voted in support of the recommendations and 43 Councillors (DA-43) voted against the recommendations.

ADOPTED, by the majority vote.

7. REQUEST FOR BUDGET APPROVAL FOR THE PROCUREMENT OF VEHICLES FOR VARIOUS DEPARTMENTS (8/3/1/3)

(Page 165)

Due to competing budgetary requirements for the Municipal projects and service delivery mandates, there has been insufficient funding to implement the Vehicle Replacements Programme. This has resulted in the Municipal departments operating aging fleet that have exceeded its lifespan thus impacting smooth service delivery.

The Municipal departments have critical functions to perform, and vehicles form part of the crucial resources required to fulfil their mandates. The departments include, but not limited to, the Parks, Recreation and Culture Unit; Metro Police Unit; Cleansing and Solid Waste Unit; eThekweni Water and Sanitation Unit; Fire and Emergency Department, etc.

In this regard, approval is sought for project authority to procure vehicles for the Municipal departments as part of replacements requirements at an estimated value of R200 Million, including VAT, to be funded from savings to be identified. This will then clear the existing backlog in the fleet replacement. Not adhering to the Vehicle Replacement Programme has resulted in the vehicles exceeding their replacements cycles which has resulted in the following challenges:

- Vehicles now requiring major driveline repairs e.g. engine overhauls which are uneconomically to undertake given the residual value or price that will be realised upon disposal of the vehicle;
- Increase in unplanned maintenance in respect of running repairs as vehicles will experience more breakdowns as they get older;
- Unreliability of the fleet and non-availability of vehicles because of major repairs which impact the department's ability to fulfil their service delivery mandates;
- Difficulty in maintaining roadworthiness of the fleet which leads to concerns for public and employee safety; and
- Increase in maintenance budget due to increased maintenance requirements of aging fleet.

In terms of the state of readiness to procure vehicles, the City fleet has secured contract for the procurement of trucks, plant and equipment etc. With regard to light motor vehicles, the Municipality will be using the National Treasury Transversal Contract to achieve economies of scales.

During discussions, the DA appreciated the fact that this item speaks to capacitating service delivery departments in terms of critical resources to function effectively. However, reservations were expressed regarding lack of critical details in terms of the number of fleets to be procured; cost breakdown in terms of the utilisation of the R200 Million; and indication in terms of the allocation per department.

Having noted that funding is yet to be identified, the DA voted against the item, citing the inability to approve the item without a full understanding of where funding will be sourced from. The DA's preferred option was to defer the item pending the identification of savings.

Clarity was then provided that the Report before the Executive Committee was actually seeking project authority rather than approval of the actual budget for this procurement. That, upon obtaining project authority, the process of identifying funding will then commence. Management then confirmed engagements already underway for the Municipal departments to take stock of the projects and budget spent to then identify areas where savings will be realized. Confirmation was given that savings will be available even though this might not reach the full budget required for this procurement.

The other Political Parties present supported the proposed procurement, with the ANC citing this initiative is responding to the Council decision to prioritise and strengthen internal capacity for effective service delivery. Mention being made that special vehicles will be procured based on the speciality of each department to complement its operations. Further, that capacitating departments with vehicles will enable timeous and immediate response from the departments to improve service delivery.

Having exhausted discussion, the DA (03) maintained its dissenting vote, and with the ANC (04) and the NFP (01) being in support,

COMMITTEE RECOMMENDS:

- 7.1 That the Municipal Council approves budget for the procurement of vehicles for various departments, as part of the vehicle replacement requirements, at an estimated value of R200 000 000.00 (Two Hundred Million Rand), including VAT, and to be funded from savings to be identified, it being recorded that at this stage the focus is on approving project authority, with the actual budget to be approved upon the finalization of a process to identify savings.
- 7.2 That, subject to .1 above, authority be granted for the Deputy City Manager: Finance to identify savings and include such in the final adjustment budget report for the 2023-24 financial year.

Financial Authority:

The required budget for the current financial year 2023/2024 for the Vehicle Replacement Programme is estimated at R200 000 000.00 (Two Hundred Million Rand). Procurement to be made through savings to be identified during the current financial year 2023/2024.

The DA submitted that a proposal to purchase additional vehicles is perceived as bad governance due to the absence of detailed information on the type of vehicles to be procured. While the EFF indicated that it was concerning that the Municipality was considering procuring new vehicles when the current fleet is not properly maintained, and some being lost in the process. Given this, an appeal was made that proper oversight be undertaken in this regard.

The ANC pointed out that non-support of this matter is concerning, with Parties questioning the proposed procurement being the very same Political Parties vocal about the state of service delivery. The ANC supported the provision of sustainable service delivery to the local communities and therefore supported the proposed fleet procurement to facilitate swift responses based on various service delivery demands.

As some Councillors were not in support of the recommendations, the matter was put to the vote. With 184 Councillors present, 158 Councillors (ANC-92, DA-43, IFP-14, ABC-02, APF-01, ATM-01, JEP-01, MF-01, NFP-01, PRM-01 and UIM-01) voted in support of the recommendations and 25 Councillors (EFF-21, Action SA-03 and VF PLUS-01) voted against the recommendations.

ADOPTED, by the majority vote.

(Deputy Mayor, Councillor ZP Myeni presented Second Report of the Executive Committee)

SECOND REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2024-06-11)

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

1. REPORT OF THE COMMUNITY SERVICES COMMITTEE: MEETING HELD 2024-04-22.

(Page R1)

1.1 Request for Authority to Accept Donation of Outdoor Gym Equipment and Kiddies Play Area by the National Department of Sports, Arts and Culture (31/1/1/2):
(LOT: Community Services Committee - Agenda 2024-04-22)

The Parks, Recreation and Culture (PRC) Unit has been approached by the National Department of Sports, Arts and Culture advising of its intention to donate the outdoor gym equipment and kiddies play area for installation in a location within the eThekweni Municipal area. Authority is therefore sought to accept this equipment which contributes to fulfilling the Unit's objectives in relation to promoting wellness and social cohesion within the communities.

The opportunity presented by the National Government is being embraced and considered to promote collaborations and shared resources, as enshrined in the District Development Model. While the PRC Unit is tasked with the responsibility to provide gym equipment at the Ward level, but this is competing with other key imperatives of the City and thus limited funding to satisfy this requirement for communities to gain access to the outdoor gym equipment. It is against this background that the acceptance of the donation from National is of critical importance, and will contribute to achieving the following objectives for the City:

- Provision of access to sports and recreation facilities
- Improving the health and well-being of individuals and community
- Improving social cohesion within the benefit community
- Improving intergovernmental relations

- Promoting effective and efficient use of financial resources to achieve government imperatives

The Committee supported the identification of a site in Ohlange, Inanda Ward 55 for the installation of the outdoor gym facilities. It is worth noting that some of the equipment can be accessed by people with disabilities. The equipment to be donated is categorized as follows:

- a) 4-person leg Press
- b) 4-person Pendulum waist trainer with parallel bars
- c) Push/pull chest & arm trainer (to accommodate 2 people)
- d) Air walker/Triple air-walker (to accommodate 3 people)
- e) Rowing machine
- f) Spinning bicycle
- g) Sit up unit
- h) Parallel bars
- i) Disabled pull/push chair
- j) Push up bars
- k) 3-seater swing
- l) 3 swings and slide combo
- m) 4 kids' see-saw

It should be noted that there are no financial implications to the Municipality arising from this donation, except that the Municipality will be expected to fulfil the following requirements:

- (i) Acknowledge receipt of a letter from the National Department of Sports, Arts and Culture, and also send response letter accepting the donation;
- (ii) Identify a site of installation and make provisions for clearance of the site;
- (iii) Register gym equipment in the Parks, Recreation and Culture Unit's asset register and make provisions for maintaining the facility; and
- (iv) Assist with water provision during installation of the gym if there is no water point on site.

The Committee then accepted this proposed donation with great appreciation noting the benefits in terms of promoting wellness and social cohesion. Clarity was also given in response to a query about the selection of Ward 55, confirmation being given that there is no other existing gym facility in this Ward, and that the National Department was specific in the selection of an area within Inanda. Accordingly, that following the necessary assignment, the area of Ohlange being the City's heritage site was considered strategic for this donation.

With there being a unanimous support,

COMMITTEE RECOMMENDS:

1.1.1

That authority be granted for the Deputy City Manager: Community and Emergency Services to, on behalf of eThekweni Municipality, accept donation of the following outdoor gym equipment and kiddies play area by the National Department of Sports, Arts and Culture, it being appreciated that some of the equipment will be accessed by people with disabilities:

- (i) 4-person leg Press
- (ii) 4-person Pendulum waist trainer with parallel bars
- (iii) Push/pull chest & arm trainer (to accommodate 2 people)
- (iv) Air walker/Triple air-walker (to accommodate 3 people)
- (v) Rowing machine

- (vi) Spinning bicycle
- (vii) Sit up unit
- (viii) Parallel bars
- (ix) Disabled pull/push chair
- (x) Push up bars
- (xi) 3-seater swing
- (xii) 3 swings and slide combo
- (xiii) 4 kids' see-saw

1.1.2 That, subject to .1 above, authority be granted for the Deputy City Manager: Community and Emergency Services to fulfil the following requirements towards the acceptance of the donation:

- (i) Acknowledge receipt of a letter from the National Department of Sports, Arts and Culture and also send response letter accepting the donation;
- (ii) Identify a site of installation and make provisions for clearance of the site;
- (iii) Register gym equipment in the Parks, Recreation and Culture Unit's asset register and make provisions for maintaining the facility; and
- (iv) Assist with water provision during installation of the gym if the site does not have water supply

1.1.3 That the Council notes with respect to (ii) in .2 above, the area of Ohlange, Inanda Ward 55, has been considered suitable for the installation of the outdoor gym equipment referred to in .1 above, and for the Council to support the identification of this location, with the area of Ohlange being considered a heritage site within the eThekweni Municipality.

In support, the ANC indicated the donation of the outdoor gym was going to assist the community of Ward 55 in promoting social cohesion and wellness. An appeal was made to the community to ensure that this equipment was well maintained, and that vandalism should be avoided at all costs.

Also, in support of the donation, the IFP pointed out that it would be appreciated if such donations were also extended to other Wards within eThekweni Municipality.

ADOPTED.

DIRECT EXCO REPORT

2. INTERIM REPORT ON STORM DAMAGES OF 03 JUNE 2024

(Laid on table)

The Executive Committee received an update report concerning response measures and interdepartmental interventions to come to the aid of the victims of the recent disaster as a result of tornado attacks and disruptive rainfall in eThekweni.

The eThekweni Municipality received a level 4 warning from the South African Weather Service on 03 June 2024, and this prompting immediate action. Accordingly, the Disaster Management Unit Teams were promptly placed on standby to vigilantly

monitor the situation. Also, the Municipality, via its Communications Unit, disseminated pertinent information across all media platforms to ensure public awareness.

Unfortunately, the disaster materialized, significantly impacting essential infrastructure, including water, electricity and roads, and sadly resulting in loss of life as well as extensive property damages. The incidents reported include eight (08) fatalities, ninety-two (92) injuries, one thousand eight hundred and forty-nine (1 849) totally damaged dwellings and nine thousand eight hundred and six (9 806) individuals affected.

In collaboration with various Non-Governmental Organizations and Faith-Based Organisation, the Municipality promptly initiated relief efforts, distributing essential supplies such as hot meals, blankets, comforters, mattresses, bread, water, food hampers, rice, maize, cooldrinks etc.

The Municipal Units conducted preliminary assessment of the damages experienced and an estimated cost received thus far is highlighted in the table below:

No	Unit	Description	Estimated Cost
1.	Disaster Management & Emergency Control	Food Hampers and tents	R1.482m
2.	Security Management	Damage to multiple council facilities	R0.374m
3.	Safer Cities	Replacement of tents at Block AK	R1.92m
4.	Human Settlements	Phase 1: Rebuild of BNG houses, roofs & ceiling repairs and provision of building materials	R70.996m
		Phase 2: Fast track Greylands Phase 2 project - services and top structure	R360m
5.	Parks, Recreation and Culture	Damages to facilities	R3m
6.	Electricity	Medium and low voltage infrastructure replacement	R40m
7.	Engineering	Repairs and clean-up of Roadway	R4m
	TOTAL		R481.772m

However, it must be noted that the above figures are work in progress and will be updated as information is received from the various Units. The total estimated cost to date is R481 772 000.00 (Four Hundred and Eighty-One Million Seven Hundred and Seventy-Two Thousand Rand).

During discussion, the Executive Committee registered the following input, focusing mainly in the area of Tongaat which experienced catastrophic damages as a result of the tornado attacks:

- Appreciation was extended to different parties, including political and administrative leadership, as well as Non-Governmental Organizations for prioritizing the necessary support to come to the rescue of the victims. Condolences were extended to the bereaved families, with the relevant departments being tasked to expedite burial assistance according to the needs of the individual families affected.

- That endeavours be made to lobby for support by the other spheres of government and to declare eThekweni a disaster area to prompt dedicated support for the victims.
- That consideration be given to also assisting formal housing property owners to rebuild given that some are facing financial constraints amid the current economic turbulences, and that support could be in a form of building material vouchers. Meanwhile, cognisance was taken of a need to look at the policy matter in relation to formal housing assistance during the disasters, including a criteria to be followed to determine owners eligible to receive support thereby avoiding double-dipping.
- The significance of giving equal treatment to all areas affected by the disaster was made which will then result in fair distribution of aid, cognisance being taken though of varied needs per the areas affected.
- That the disaster situation at hand be treated with sensitivity to prioritize the victims rather than Political Parties' interests. Therefore, it was recommended to use the Tongaat Sports Centre as the drop off zone for all donations which would then be fairly distributed by the relevant Municipal officials.
- The swift restoration of services by the Electricity; Water & Sanitation; and the Parks, Recreation and Culture Units was commended, it being acknowledged that the sustainability of such a turnaround time under normal business circumstances can make a huge difference in the provision of services within the eThekweni Municipal area.
- The other services considered to be urgently required included fixing of streetlights to prevent potential criminal activities during this disaster; provision of additional skips for debris disposal, with collection scheduled at least once a week, and a proposal made to waive debris collection tariff for the communities affected; provision of ablution facilities catering for different genders of individuals displaced and accommodated in mass care centres.
- That necessary details be covered in the funding application to National Treasury to avoid delays in transfer payment. On the other hand, that the Municipal leadership continues its efforts to lobby for the decentralization of disaster response funding which will assist to fast-track response mechanisms in the event of disaster. That engagements be held with SALGA and COGTA to explore a possibility of reviewing the relevant legislation to allow the Municipality to ring-fence funding for disaster response.
- That arrangements be made for high police visibility for traffic management purposes given the influx of reporters and the general public viewing the tornado aftermath.
- The Executive Committee committed to organizing a workshop focusing on disaster management issues to enhance preparedness for potential future disaster incidents.

Thereafter, Management acknowledged input submitted and committed to strengthening the coordination aspects, as per areas needing improvements, as the Municipal Units are continuing providing response mechanisms.

On this basis,

COMMITTEE RECOMMENDS:

2.1 That Council notes a comprehensive interim report on inter-departmental interventions in response to damages caused by the tornado attacks and disruptive rainfall occurred 03 June 2024 in certain areas of eThekweni, it being reported that the area of Tongaat experienced catastrophic damages as a result thereof.

2.2 That Council notes interim cost implications pertinent to various Units for disaster response mechanisms, currently estimated at R481 772 000.00 (Four Hundred and Eighty-One Million Seven Hundred and Seventy-Two Rand), as per the breakdown in the table below:

No	Unit	Description	Estimated Cost
1.	Disaster Management & Emergency Control	Food Hampers and tents	R1.482m
2.	Security Management	Damage to multiple council facilities	R0.374m
3.	Safer Cities	Replacement of tents at Block AK	R1.92m
4.	Human Settlements	Phase 1: Rebuild of BNG houses, roofs & ceiling repairs and provision of building materials	R70.996m
		Phase 2: Fast track Greylands Phase 2 project - services and top structure	R360m
5.	Parks, Recreation and Culture	Damages to facilities	R3m
6.	Electricity	Medium and low voltage infrastructure replacement	R40m
7.	Engineering	Repairs and clean-up of Roadway	R4m
	TOTAL		R481.772m

2.3 That authority be granted for the City Manager to facilitate a process of the Municipal Units having the responsibility to respond to the disaster damages to reprioritise budgets for the repairs to the damaged infrastructure.

2.4 That Council notes that the eThekweni Municipality, together with the Provincial and National Disaster Management Centres is to recommend the declaration of a local disaster in terms of Section 23 of the Disaster Management Act for the storm affected areas.

2.5 Based on the input by the Executive Committee, that the following resolutions be formalized for implementation purposes:

- (i) The City Manager to facilitate engagements with the South African Local Government Association (SALGA) and the Department of Cooperative Governance and Traditional Affairs (COGTA) to play advocacy for the decentralization of the disaster response funding thereby enabling the Municipality to fastrack responses in the event of disasters.

- (ii) That the City Manager lobbies for support of formal housing property owners in a form of building material vouchers to assist with the rebuilding of their houses as some are facing financial constraints amid the current economic turbulences, it being acknowledged that a structured criteria will have to be followed to determine eligible beneficiaries thereby avoiding double-dipping.
- (iii) That the City Manager coordinates the Municipal input to contribute into the human settlements policy review process in preparation to incorporate clauses impacting formal housing given a growing demand to cater for this category to support property owners in need, based on terms and conditions to be outlined to ensure provision of support within a structured framework.

2.6

That the Executive Committee be mandated to embark on a regular oversight to ensure accountability and the effective use of the funds allocated and report back to Council.

AMENDMENT

In terms of Rule 20 (4) of the Rules of Order By-Law, as emended, Councillor ZM Mncwango, supported by Councillor B Kubheka moved that the recommendations be amended by the addition of recommendation 2.6 to read as follows:

“That the Executive Committee be mandated to conduct regular oversight to ensure accountability and the effective use of the funds allocated and report back to Council.”

As some Councillors were not in support of the proposed amendment, the matter was put to the vote. With 184 Councillors present, 88 Councillors (DA-42, EFF-21, IFP-14, Action SA-03, ACC-01, ACDP-01, APF-01, ATM-01, MF-01, PRM-01, UIM-01 and VF PLUS-01) voted in support of the amendment and 96 Councillors (ANC-96) abstained.

Thereafter, the proposed amendment was, by the majority vote, **CARRIED.**

Reverting to the substantive matter, the DA pointed out that it would have worked better if the distribution of aid to the tornado victims was decentralised. That the current arrangement prohibited other NPOs and businesses to render support, with some areas being inaccessible. Mention was made that requests for the prioritisation of roads rehabilitation, streetlights and traffic control remained unresolved. The leadership was requested to exercise same treatment when dealing with the tornado victims, including all areas affected.

Joining the discussion, the IFP appreciated efforts made to assist the victims, remaining hopeful that funding allocated for this disaster will be used effectively. Likewise, the ActionSA supported interventions made to support the tornado victims, with the Executive Committee being requested to strengthen its oversight thereby ensuring related funds are spent in an accountable manner.

Also in support, the NFP commended the Disaster Management and Emergency Services Unit for the efforts displayed to speedily assist the victims. It being mentioned that provision of support during this trying time is not entirely the responsibility of local government, hence the importance to tap into the District Development Model to ensure collaborative efforts with the other spheres of government.

Concluding discussions, the ANC highlighted that it was not only the area of Tongaat that was affected by the tornado, but that certain other parts of Durban were also affected. Whilst noting the efforts made to respond swiftly, the ANC presented that more work was still to be done to restore areas affected. The meeting being reminded that this would therefore necessitate adjustments to the approved budget to redirect funds thereby resuscitating services in the areas affected.

Thereafter, recommendation 2.1, 2.2 and 2.4 were **NOTED**, recommendation 2.3 and 2.5 were **ADOPTED**, subject to adding recommendation 2.6 reflected in italics above.

(The Deputy Mayor, Councillor ZP Myeni presented Third Report of the Executive Committee)

THIRD REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2024-06-24)

PRESENT : Executive Committee Members ZP Myeni (Deputy Mayor and Chairperson), A Beetge, Y Govender; NI Madlala, TM Mthethwa, OB Mvubu, MS Nkosi, ZR Sokhabase and there being one (01) vacancy.

ABSENT : Executive Committee Member BT Ntuli (Leave- Municipal Business).

1. REPORT OF THE FINANCE COMMITTEE: MEETING HELD 2024-06-19

1.1 Reprioritization of the Supply Chain Management Unit 2023/2024 Capital Budget to Accommodate Critical Projects for Stores: (Page 21: Finance Committee - Agenda 2024-06-19)

The eThekweni Municipality's Supply Chain Management (SCM) Unit is one of the key Units responsible for ensuring swift Municipal operations through procurement of goods and services Municipal-wide. Therefore, it is imperative for the Unit employees to be well-capacitated and for their working environment to comply with the health and safety requirements. In this regard, Management conducted a site inspection which revealed issues of human capital support and logistical requirements necessary for staff to perform at their optimum level. To respond to the needs of the staff, authority is sought to reprioritise the Supply Chain Management Unit's 2023/2024 Capital Budget to cater for critical projects which were not budgeted for.

As a way of background, the Supply Chain Operations has the following stores depot:

- Pinetown Stores;
- Springfield Stores;
- Bus operations (Tyre store);

- Tyre store (Mobeni); and
- Spares store (Mobeni).

Also has six (06) fuel bowsers in:

- Phoenix;
- Chatsworth;
- Verulam;
- Tongaat;
- Amanzimtoti; and
- Old fort complex.

The items to be accommodated through capital budget reprioritization are outlined below as follows:

1. Non-Infrastructure Office Furniture & Equipment:

The inspection conducted has revealed shortage of office desks resulting in certain employees to share working space. Some of the furniture is in bad condition, and also lack of aircon in offices thus posing health and safety risks.

The Occupational Health and Safety Unit has intervened to indicate the unacceptable condition as a result of lack of aircon in confined offices. Currently, there is no aircon installed in the SCM stores and the fuel bowsers. Employees located therein have to bear heat conditions and potential exposure to communicable diseases.

2. Non-Infrastructure Kitchen Equipment:

There is an urgent need for items such as fridges, microwaves, kettles and related equipment for the SCM stores. The lack thereof is particularly a challenge for employees stationed in fuel bowsers located far from the CBD and shops who then need to bring lunch but there is not fridge and microwave for this purpose. Again, this is posing healthy risks, with the Occupational Health and Safety Unit emphasizing non-compliance with health and safety aspects in this regard. Hence, the importance to fastrack procurement accordingly.

3. Non-infrastructure Computer equipment:

Most staff members in the SCM stores share the use of desktop computers and printers. This then causes delays and affects the day-to-day operations. Further, this hinders ability to perform duties to the fullest. The staff complement is also increasing thus exacerbating the situation.

Currently, the SCM Unit does not have funds to declare as savings. To optimise the capital budget spend for the Finance Cluster, savings have been identified from the Revenue Unit. The budget in the amount of R1 657 500.00 (One Million Six Hundred and Fifty-Seven Thousand Five Hundred Rand) was originally secured by the Revenue Unit for the upgrade of the Phoenix Cash Office. The Unit is unable to utilize the budget at this stage, pending finalisation of a legal matter. Hence, this is now declared as savings, and a proposal to reprioritize same to draw an amount of R679 000.00 (Six Hundred and Seventy Thousand) required for the procurement of critical furniture and equipment for the SCM stores and the fuel bowsers, as outlined.

The Finance Committee unanimously supported this request given the significance for the SCM Unit to effectively support service delivery interventions through procurement of goods and services. As part of oversight, the Committee to also conduct inspection to ensure the necessary alignment between the staff needs outlined and the procurement of same through the capital budget reprioritization process.

With the Committee being in agreement,

COMMITTEE RECOMMENDS:

- 1.1.1 That Council notes an amount of R1 657 500.00 (One Million Six Hundred and Fifty-Seven Thousand Five Hundred Rand) originally secured by the Revenue Unit for the upgrade of the Phoenix Cash Office has been declared as savings, in view of the upgrade not yet undertaken, pending the finalization of a legal matter.
- 1.1.2 That, in view of .1 above, Council approves budget reprioritization, to transfer from the savings identified by the Revenue Unit, an amount of R678 100.00 (Six Hundred and Seventy-Eight Thousand One Hundred Rand), to the Supply Chain Management Unit for the procurement of critical furniture, equipment and installation of aircon to circumvent the challenges of non-compliance with health and safety aspects as well as improve productivity levels through provision of adequate tools of trade.

Financial Implications:

FUNDS REQUESTED		FUNDED FROM	
Description	Amount	Description	Amount
Supply Chain Management			
Non-Infrastructure New Furniture and Office Equipment	R179 100.00	Phoenix Cash Office Renovation	R678 100.00
Non-Infrastructure New Computer Equipment	R273 000.00		
Non-Infrastructure New Kitchen Equipment	R 66 000.00		
Air-conditioner Installation	R150 000.00		
Non-Infrastructure New Machinery and Equipment	R 10 000.00		
TOTAL	R678 100.00		R678 100.00

Vote Numbers:

FUNDS REQUESTED					FUNDED FROM				
BU. MSCOA Item	Funding	Costing	Project	Region	BU. MSCOA Item	Funding	Costing	Project	Region
43300.44630	30015	0000	PC8400	0010	31238.44511.22	30015	0000	CSA2507	W054
43300.44630	30015	0000	PC8300	0010					
41200.44530	30015	0000	PC8400	W027					
43300.45506.12	30015	0000	T7248	0010					
43300.44255	30015	0000	PC8800	W028					

ADOPTED.

1.2

Approval of Accounting Policies for the 2023/24 Financial Year (7/P):
(Page 25: Finance Committee - Agenda 2024-06-19)

In line with Section 122 (3) of the Municipal Finance Management Act No. 56 of 2003, Municipalities and Municipal Entities are required to prepare Annual Financial Statements in accordance with the Generally Recognised Accounting Practices (GRAP) developed by the Accounting Standards Board (ASB). Newly developed standards are adopted on a continuous basis when promulgated by the Minister of Finance and become effective.

Therefore, the Municipal Council is required to adopt amendments to the Accounting Policies for the 2023/2024 financial year to enable the Municipality to prepare its Annual Financial Statements for the year ending 30 June 2024.

In terms of directive 5, the following standards became effective in the current financial year:

- Revised GRAP 25 on employee benefits and related IGRAP 7 on the limit on a defined benefit asset, minimum funding requirements and their interaction;
- Amendments to GRAP 1 on presentation of Financial Statements as a result of changes agreed as part of developing guidelines on the application of materiality to Financial Statements;
- The effect of past decisions on materiality, IGRAP 21;
- Improvements to the Standards of GRAP, 2020; and
- Guidelines on accounting for landfill sites.

The Accounting Policies have been amended to incorporate the following amendments and enhancements required to achieve fair presentation:

- i) The financial statements are prepared based on the materiality framework where the materiality figure is calculated using the latest audited results. Section 1.9 of the Accounting Policies dealing with Materiality has been amended to include the updated materiality figure which is based on the 30 June 2023 audited financial statements.
- ii) Section 1.11 of the accounting policies dealing with intangible assets has been improved to include the Capacity Rights item. The rights arise from a contractual agreement with ESKOM, for the Municipality to receive electricity at a specified supply points and capacity. The Municipality reimburses ESKOM for the initial capital expenditure and cost incurred by ESKOM in making the bulk supply of electricity available in the specified supply points. The rights are considered to have an indefinite useful life.
- iii) The Municipality owns both internally generated and other off-the-shelf computer software, GRAP 31 requires that the disclosure of useful lives for each category of intangible assets distinguishes between internally generated and other. Section 1.11 of the Accounting Policies has been amended to provide this distinction. The range of useful lives for each category of computer software is the same given that the procurement of the intangible asset (internally generated or purchased of-self) does not have an impact on the economic life of the asset.

- iv) Section 1.12 of the accounting policies dealing with employee benefit obligations has been improved to include the definition of employee benefits. Minor amendments were made to the wording of Section 1.12.2 dealing with defined benefit plans. These amendments also address queries raised by the National Treasury based on the review of prior year financial statements.
- v) Section 1.19 of the accounting policies dealing with grants, transfers and donations has been improved to include the accounting treatment of unconditional grants, transfers and donations. Income received from these grants is recognised as revenue upon receipt and/or when resources transferred meet the criteria for recognition as an asset and there is also no present obligation to the Municipality to refund transferred resources to the transferor.
- vi) Section 1.21 of the Accounting Policies has been amended to only deal with the contractual commitment requires by the specific standards of GRAP i.e. the disclosure of future minimum lease payment in terms of GRAP 13; contractual obligation to purchase, construct or develop investment property or for repairs, maintenance or enhancement in terms of GRAP 16; contractual commitments for the acquisition of property, plant and equipment in terms of GRAP 17; contractual commitment for the acquisition of intangible assets of GRAP31; and contractual commitment for the acquisition, maintenance and restoration of heritage assets in terms of GRAP103.
- vii) Section 1.27 of the Accounting Policies dealing with taxation has been improved to include the accounting treatment of the deferred tax liability. This addition was prompted by the review of the Municipal entities' policies pertaining to taxation for consistency and completeness.
- viii) Where there are no specific standards of GRAP dealing with the condition or event, the Municipality is required to develop the accounting policy using the GRAP standards dealing with the similar principles, or use the principles outlined in the conceptual framework or refer to the pronouncements issued by other recognised accounting authorities. There is currently no GRAP standard for statutory payables. Therefore, Section 1.34.2 has been amended to indicate that, in the absence of the specific standard, the accounting policy has been developed using the principles of GRAP 19 since there is uncertainty regarding the timing of outflow of cash for VAT payable.
- ix) Section 1.35 of the accounting policies dealing with provisions and contingencies has been improved to include the definitions for contingent assets and liability as recommended by the Internal Audit Department.
- x) Section 1.36.2 of the accounting policies dealing with revenue from non-exchange transactions has been improved to include the accounting treatment of surcharges relating to the additional infrastructure tariff imposed on the consumption of water and sanitation services.
- xi) The Municipality does not have non-living resources in its books, and the value of living resources is trivial. The carrying amount of living resources as per the prior year audited Annual Financial Statements (AFS) was R101 000.00 (One Hundred and One Thousand Rand). The accounting policy dealing with living and non-living resources was therefore considered to be insignificant and thus removed. This accounting policy will be included should the Municipality has material living and non-living resources based on the annual review of accounting policies.

- xii) In addition to the above changes, the accounting policies have been reviewed thoroughly and some cosmetic changes have been made on spelling, grammar, terminologies and other clarifications.

With the Committee appreciating the Municipality for being compliant with the standards of the accounting policy,

COMMITTEE RECOMMENDS:

That in order to ensure compliance with Section 122 (3) of the Municipal Finance Management Act and National Treasury guidelines, which requires that the Annual Financial Statements of the Municipality and its entities are in accordance with the Standards of Generally Recognized Accounting Practice, the accounting policies for the 2023/2024 financial year and reflected in Annexure “A” to the report of the Head: Expenditure dated 2024-05-03, also narrated in the preamble, be approved.

ADOPTED.

1.3

Noting of Intention to Award Contract, in terms of Section 33 of the Municipal Finance Management Act No. 56 of 2003, for the Provision of Homebowser and On-Road Automotive Fuel, with an Automated Fuelling Solution:
(Page 352: Finance Committee - Agenda 2024-06-19)

The City Fleet Unit has, in terms of Section 33 of the Finance Management Act (MFMA) No. 56 of 2003, embarked on a process to secure a long-term contract, ninety-six (96) months to be precise, for the provision of home bowser and on-road automotive fuel, with an automated fuelling solution.

The Unit followed due process, as prescribed in Section 33 of the MFMA, to achieve the necessary compliance requirements in this regard. This also included advertising public notice to obtain public comments, and there were none received in response to the advert. As per the requirements, in terms of Section 33 of the MFMA, the City Fleet Unit also solicited views of the relevant stakeholders, including National Treasury; Department of Minerals Resources & Energy; as well as the Department of Cooperative Governance and Traditional Affairs. Positive feedback was received, supporting the City Fleet Unit to proceed and secure a long-term contract envisaged.

At the Support Committee level, some members submitted a view to consider opting for a normal 3-year contract to avoid potential losses as a result of fluctuating fuel prices, and to open a competitive bidding process for more suppliers to participate. That normal contract will enable the Unit to better manage and track operational costs. Management confirmed thorough analysis undertaken to weigh benefits of a long-term contract and explained huge discounted services associated therewith. The support by key stakeholders, including National Treasury, bearing testimony that the approach is cost-effective and to bring value for money for the Municipality.

At the Executive Committee level some members raised similar views regarding opting for a normal 3-year tender and opening the process for other suppliers in the market. The benefits associated with a long-term contract were reiterated, mention being made that the contract involves provision of efficient fuel services, with a service provider to purchase tracking and monitoring devices, with a useful life of 5-years, to track and monitor fuel consumption of approximately nine thousand (9 000) Municipal vehicles. That a 3-year tender is perceived by service providers not to bring return on investment.

Meanwhile, the Committee's attention was drawn to the fact that the Section 33 tender process under discussion was commenced sometime ago, after the Municipal Council granted authority for the Unit to follow this process and observe the necessary compliance requirements. That this submission serves as feedback to the Council.

Following discussion, the DA and the EFF both abstained on the matter at this stage. With the other Political Parties present being in support,

COMMITTEE RECOMMENDS:

- 1.3.1 That Council notes projected financial implications illustrated under financial implications below, associated with proposed eight-year term of Contract No. 1J-4815: Provision of Homebowser and On-road automotive fuel, with an automated fuel solution for a period of ninety-six (96) months, using Section 33 process derived from the Local Government: Municipal Finance Management Act No. 56 of 2003.
- 1.3.2 That it be noted that there were no comments or objections received from the public or any other interested parties in relation to the intention to engage on a long-term contract referred to in .1 above.
- 1.3.3 That Council notes comments and recommendations received from the National Treasury, Department of Minerals Resources & Energy and the Department of Cooperative Governance and Traditional Affairs, as well as comments from the City Fleet Unit, as narrated in the report by the City Manager dated 12 June 2024
- 1.3.4 That based on .1, .2 and .3 above, Council approves both contracts i.e. contract for the provision of homebowser (Section A) and contract for the provision of on-road automotive fuel (Section B).
- 1.3.5 That subject to the approval of .4 above, authority be granted for the City Manager to sign the contracts with both service providers.

Financial Implications and Provisions:

This contract will have financial implications for a period of ninety-six (96) months and financial provisions have been made as follows:

Financial Year	Projected Amount (Rands)
2024/2025	R534 733 021.00
2025/2026	R566 817 002.00
2026/2027	R600 826 023.00
2027/2028	R636 875 584.00
2028/2029	R675 088 119.00
2029/2030	R715 593 406.00
2030/2031	R758 529 011.00
2031/2032	R804 040 751.00
TOTAL	R5 292 502 921.00

Vote Number	Financial Certificate Number
	2024/03/11
14105 34 12120 0000 MRC01 0010	2024/03/10
18615 60 12120 0000 MRC01 0010	2024/03/12

The DA indicated that it appears consideration has not been given to constant petrol price fluctuations when recommending an 8-year tender. The view therefor was to consider a 3-year tender to place the Municipality in good position to realize some savings during the times when the fuel price decreases.

ADOPTED, noting abstention by the DA.

DIRECT EXCO REPORTS

2. INDICATOR EXEMPTIONS RELATED TO THE MUNICIPAL FINANCE MANAGEMENT ACT CIRCULAR 88 REPORTING FOR THE 2023/2024 AND 2024-2025 FINANCIAL YEARS (2/10/1/1/9)

(Page 1)

The National Treasury has advised of its intention to review reporting processes related to the financial management sector to achieve integration and eliminate any duplications. This relates to Circulars No. 71 and 88 of the Municipal Finance Management Act (MFMA) No. 56 of 2003 on Rationalisation Planning and Reporting Requirements. Pending the review process cited, the National Treasury also identified indicators appearing to be marred with reporting challenges and therefore resolved to exclude such from reporting in the 2023-24 and 2024-25 financial years.

It being noted that the National Treasury is the custodian of indicators, with compliance to be achieved upon receiving integrated indicators,

COMMITTEE RECOMMENDS:

That, as per the directive by National Treasury, Council notes exclusion of the Circular 88 indicators, reflected in the table below, from the Service Delivery and Budget Implementation Plan reporting in the 2023/2024 and 2024/2025 financial years:

Indicator Reference	Indicator Description
FM1.1	Percentage of expenditure against total budget
FM1.11	Total Capital Expenditure as a percentage of Total Capital Budget
FM1.12	Total Operating Expenditure as a percentage of Total Operating Expenditure Budget
FM1.13	Total Operating Revenue as a percentage of Total Operating Revenue Budget
FM1.14	Service Charges and Property Rates Revenue as a percentage of Service Charges and Property Rates Revenue Budget

ADOPTED.

3. RATIFICATION OF APPROVAL IN TERMS OF RULE 28 (1) (a) OF THE RULES OF ORDER BYLAW 2014, AS AMENDED, WITH RESPECT TO THE CIVIC FUNERAL ACCORDED THE LATE ANC PR COUNCILLOR LG MTHEMBU, AS PER THE REQUIREMENTS OF THE CIVIC FUNERAL POLICY (3/5/15)

(Page 2)

The Municipal Council sadly lost a long-term serving ANC PR Councillor LG Mthembu, who passed on March 2024. Mthembu joined the Municipal Council since 2016 and served diligently, focusing mainly on playing advocacy for women emancipation, hence, led various Women Emancipation Programmes in her 10-year tenure with the Municipal Council.

Given Mthembu's contribution for the betterment of the lives of the eThekweni citizens, in particular in the women empowerment category, it was considered necessary to accord her the civic funeral, in line with the Council-approved Civic Funeral Policy. This then necessitated allocation of an amount not exceeding R200 000.00 (Two Hundred Thousand Rand) for this purpose.

A decision in relation to the provision of civic funeral was made in terms of Rule 28(1)(a) in view of the funeral taking place at the time when there was no Council oversight structure meeting taking place. As per the requirements of Rule 28, the decision is submitted before the Council for ratification purposes.

Accordingly,

COMMITTEE RECOMMENDS:

That the action of His Worship the Mayor, Councillor TM Kaunda, in his capacity as the Mayor and Chairperson of the Executive Committee, supporting a recommendation by the City Manager to approve, in terms of Rule 28 (1) (a) of the Rules of Order By-law 2014, as amended, to accord the late ANC PR Councillor Lindiwe Gloria Mthembu the civic funeral at an estimated costs of R200 000.00 (Two Hundred Thousand Rand), in line with the Civic Funeral Policy, be ratified.

Financial Implications:

Vote Number:

BU	ITEM.SUB	FUND	COSTING	PROJECT	REGION
32123	19110.10	12120	0000	MRC01	0010

The ANC reported that going forward matters relative to civic funeral will be dealt with Incommittee for the Council to protect the family of the deceased since some of the points of discussions may appear insensitive since this come at a time when the family is still mourning.

ADOPTED.

4. FEEDBACK REPORT ON THE BENCHMARKING WORKSHOP HELD
IN RESPONSE TO THE LABOUR UNREST RELATING TO CATEGORY 10
WAGE CURVE (4/1/1/1)

(Page 5)

It will be recalled that eThekweni Municipality suffered service delivery disruptions during the unprotected strike embarked upon by the South African Municipal Workers Union (SAMWU) during the period 27 February to 19 March 2024, demanding implementation of Category 10 pay scale and pay parity with Ekurhuleni and Tshwane Municipalities.

The severity of the strike led to interventions being made involving the other spheres of Government. As such, a 2-day workshop was proposed and led by the Minister of COGTA, to include SAMWU; the Independent Municipal & Allied Trade Union (IMATU); South African Local Government Association (SALGA); and the Department of Cooperative Governance and Traditional Affairs (COGTA).

The workshop was held accordingly from 21 to 22 May 2024. The key outcome thereof is the consensus reached to establish a Task Team to conduct a benchmark exercise with the other Metros in the country, and establish pay scales of Districts and Local Municipalities in the KwaZulu-Natal Province. The outcomes are outlined further under the recommendations below.

The Executive Committee acknowledged that in terms of role clarification, the Municipality will handle the activities of the Task Team. In this regard, expenditure was to be incurred in the form of meeting logistics; travel and subsistence allowance. However, that the costs in this regard were to be quantified at the time of undertaking the activities. It being recorded that costs were to be kept at a reasonable level in view of some of the meetings to be convened virtually and desktop investigation to be undertaken.

It was therefore considered prudent for the Council to give support of the Task Team activities and anticipated expenditure to avoid delays in finalizing the benchmarking exercise within a stipulated period.

The DA abstained at this stage, and with the Political Parties being in support,

COMMITTEE RECOMMENDS:

4.1 That Council notes the outcomes of the workshop championed by the Minister of Cooperative Governance and Traditional Affairs from 21 to 22 May 2024 at the Inkosi Albert Luthuli International Convention Centre, as part of the interventions to address the illegal strike embarked upon by the South African Municipal Workers Union during the period 27 February to 19 March 2024, demanding implementation of Category 10 Wage Curve and pay parity with Ekurhuleni and Tshwane Municipalities, and the outcomes recorded below as follows:

- i) That a Task Team comprising Management and Organized Labour (SAMWU & IMATU) be established within 2 weeks from the date of the workshop to conduct a benchmarking exercise which must be concluded within 6 months from the date of the workshop;

- ii) That the Department of Cooperative Governance and Traditional Affairs facilitates a process and also sponsor the Terms of Reference for the benchmarking exercise;
- iii) The scope of the investigation, as part of the benchmarking exercise, to cover all Metros in the country and pay scales of Districts and Local Municipalities in the KwaZulu-Natal province;
- iv) That a Communication Strategy regarding the benchmarking exercise be developed for all stakeholders, especially employees of eThekweni Municipality, to be kept informed;
- v) That the Municipality will manage all logistics related to the work of the Task Team; and
- vi) That, it be recorded the Municipality will not withdraw from the negotiations on the Wage Curve Collective Agreement currently underway in the South African Local Government Bargaining Council, as the benchmarking exercise is a separate process which does not have an impact on the negotiations

4.2

That subject to outcome (v) above, Council approves that the eThekweni Municipality funds the Task Team benchmarking activities costs to be incurred for travel and subsistence allowance, including costs incidental to meetings for members of the Task Team, it being recorded that endeavours will be made to keep the costs at a reasonable level in view of some of the work to be conducted as a desk top exercise and, where possible, meetings with other municipalities to be held virtually.

Financial Implications:

Benchmarking costs to be quantified at the time of Task Team activities, however, it is envisaged that this be in respect of subsistence and travelling (S & T), as well as costs incidental to meetings for members of the Task Team. It being recorded though that most of the work will be conducted as a desktop exercise, and where possible, meetings with other Municipalities will be held virtually.

NOTED, recommendation 4.1

ADOPTED, recommendation 4.2, and noting the DA abstention

5.

REQUEST TO REPRIORITIZE THE 2023/2024 CAPITAL BUDGET FOR THE ETHEKWINI TRANSPORT AUTHORITY PEDESTRIAN SIDEWALKS PROJECT (7/1/3/2 & 26/3/1/2)

(Page 7)

Authority is sought to reprioritize savings in the amount of R304 020.00 (Three Hundred and Four Thousand and Twenty Rand) identified from the 2023-24 Capital Budget of the eThekweni Transport Authority originally secured for the pedestrian sidewalks project.

Savings have been realised as a result of the final construction costs being slightly lower than the initial estimate for each of the sidewalk project on the 2023-24 Capital Budget. Meanwhile, there is an urgent need to address pedestrian safety at Umndeni Street in view of this road leading to Savannah Combined School.

As such, authority is sought to utilise the amount of R304 020.00 for Umndeni Street pedestrian sidewalk construction. Confirmation was given that reprioritizing these funds will not hinder progress of other ongoing projects.

The budget reprioritization request was supported, emphasis being put on informing Ward Councillors impacted by the projects cited in this submission. Meanwhile, the EFF abstained at this stage while the other Political Parties registered their support to prioritise safety of pupils.

Accordingly,

COMMITTEE RECOMMENDS:

That authority be granted for the Head: EtheKwini Transport Authority to reprioritize savings in the amount of R304 020.00 (Three Hundred and Four Thousand and Twenty Rand) identified under the 2023-24 Capital Budget of EThekweni Transport Authority, as a result of the final construction costs of the pedestrian safety projects in Roland Chamane Street; Umzumbe Street; and 108956 Street being slight lower than the initial costs estimates, it being recorded that the savings identified will be utilized to fund Umndeni Street pedestrian sidewalk prioritized in view of this street leading to Savannah Combined School.

Financial Implications:

1. Funds to be reprioritized:

Capital Budget Description	Project Number	Budgetary Provision Requested	New Budgetary Provision	Ward
Pedestrian Safety – Umndeni Street		R304 020.00	R304 020.00	W017
TOTAL COST		R304 020.00	R304 020.00	

2. Savings Identified:

Capital Budget Description	Project Number	Original Approved Budgetary Provision	Savings	Ward
Pedestrian Safety – Roland Chamane Street	E0786	R1 000 000.00	R96 000.00	W064
Pedestrian Safety – Umzumbe Street	E0810	R1 400 000.00	R87 920.00	W040
Pedestrian Safety – 108956 Street	E0783	R2 100 000.00	R120 100.00	W056
TOTAL COST		R4 500 000.00	R304 020.00	

The EFF proposed that the Report containing items of the Human Settlements and Infrastructure Committee should be referred back to this Committee. This was based on the fact that the Committee did not have the opportunity to engage on the items with the meeting having been adjourned based on certain disagreements regarding service delivery matters.

Responding, the Speaker clarified that it was not an anomaly for the Executive Committee to receive direct Reports in the event a Support Committee is unable to continue with its business for various reasons. He also cited that service delivery should not be halted by the inability of the Committee to convene its meetings. The attention was also drawn to the fact that the Municipality was wrapping its financial year, hence, the requirement to commit funding, in particular, in relation to capital expenditure.

Given the explanation provided, the EFF withdrew the reference back. Subsequently, the recommendations were unanimously

ADOPTED.

6. REQUEST TO REPRIORITIZE THE 2023/2024 ETHEKWINI TRANSPORT AUTHORITY CAPITAL BUDGET FOR COMMUNITY INFRASTRUCTURE PROJECTS (7/1/2/1)

(Page 9)

Authority is sought to reprioritize funding from the Community Infrastructure Project (CIP) for Departmental Provision under the eThekweni Transport Authority's Capital Budget.

The projects under the CIP are subjected to variance, with some having exceeded the initial budgetary provisions while others incurred the costs lesser than the initial costs estimates. For certain roads, an additional amount of R240 000.00 (Two Hundred and Forty Thousand Rand) is required to complete the speedhumps project. It has been discovered that wider roadways require lengthened speedhumps, and as a result, an increase in associated quantities.

The amount to be reprioritized will beef up budget for the projects undertaken in the following roads:

- Umbalane Drive in Wards 42, 43 and 45
- Hilldale Drive in Wards 37 and 11
- Cunningham Drive in Ward 63
- Boundary Road – Escombe in Ward 63
- Sabela Road in Ward 91
- Mzomuhle Road in Ward 91
- Gasa Road in Ward 91.

The EFF abstained at this stage, and by the majority support,

COMMITTEE RECOMMENDS:

That authority be granted for the Head: EtheKwini Transport Authority to reprioritize an amount of R240 000.00 (Two Hundred and Forty Thousand Rand) under the 2023-24 Capital Budget of EThekweni Transport Authority, which funds have been obtained from the projects which ended up having lesser final construction costs than the initial costs estimates, to then fund the projects where costs have escalated and such are reflected in the table reflected under financial implications below:

Financial Implications:

1. Funds to be reprioritized:

Capital Budget Description	Project Number	Original Approved Budgetary Provision	Additional Budgetary Provision Requested	New Budgetary Provision	Ward
Umbalane Drive	E1487	R450 000.00	R115 000.00	R565 000.00	42/43/45
Hilldale Drive	E1494	R270 000.00	R40 000.00	R310 000.00	37/11
Cunningham Road	E1495	R180 000.00	R11 000.00	R191 000.00	63
Boundary Road - Escombe	E1496	R150 000.00	R26 000.00	R206 000.00	63
Sabela Road	E1498	R90 000.00	R9 000.00	R159 000.00	91
Mzomuhle Road	E1499	R450 000.00	R1 000.00	R91 000.00	91
Gasa Road	E1500	R150 000.00	R38 000.00	R188 000.00	91
TOTAL COST		R1 470 000.00	R240 000.00	R1 710 000.00	

2. **Savings Identified:**

Capital Budget Description	Project Number	Original Approved Budgetary Provision	Additional Budgetary Provision Requested	Ward
CIP Departmental Provision	G1020C	R17 000 000.00	R240 000.00	
TOTAL COST		R17 000 000.00	R240 000.00	

ADOPTED.

7. APPROVAL OF THE 2024-25 STRATEGIC RISK PROFILE (2/10/1/1/8)

(Page 12)

Management has embarked on an involved strategic risk assessment, as per the statutory requirement, and in a bid to mitigate factors threatening to hinder productivity and achieving strategic objectives of the Municipality. Strategic risks are categorised as those risks:

- That may hinder or prevent the Municipality from achieving its mandate and strategic objectives, as defined in the Annual Business Plans and Integrated Development Plan;
- Which if they were to materialize, the impact of the exposure will cut across all or the majority of Municipal operations; and
- That requires a strategic intervention and/or decision as a response or treatment plan to manage the risk exposure.

The strategic risks identified are submitted for approval by the Council and thereafter monitor implementation of mitigating measures as part of the risk management process. It should be noted that other mechanisms implemented to mitigate risks include the following:

- Development of Service Delivery Model;
- Revival of quarterly Performance Review Sessions;
- Implementation and Tracking of Water and Sanitation Turnaround Strategy,
- Reviving City Regeneration Programmes: and
- Organisational Review Process.

Given the significance to manage risks to support the Municipality to fulfil its founding mandate,

COMMITTEE RECOMMENDS:

That Council approves the 2024-2025 eThekweni Municipality top strategic risks reflected below, and identified in compliance with Section 62(1)(c)(i) of the Local Government: Municipal Finance Management Act No. 56 of 2003, it being recorded that Management will monitor that the risks do not materialize and with Council to play effective oversight in this regard:

- (a) Good Governance and Organisational Culture;
- (b) Procurement Excellence and Financial Sustainability;
- (c) Infrastructure Development and Service Delivery;
- (d) Economic Growth and Investment;
- (e) Safety and Security;
- (f) Cyber and IT Infrastructure;
- (g) Environmental, Health and Social Inclusion;
- (h) Business Continuity and Resilience;
- (i) Fraud, Theft and Corruption;
- (j) Climate Change and Disaster Response;
- (k) Political Environment Risks; and
- (l) Compliance Risk

REFERENCE BACK

In terms of Rule 20 (1) (c) of the Rules of Order By-Law, as amended, Councillor WJD Burne, supported by Councillor KS Sibisi moved for the report to be referred back to all support Committees for further consideration.

As some Councillors were not in support of the reference back, the matter was put to the vote. With 170 Councillors present, 59 Councillors (DA-42, IFP-12, ActionSA-02, MF-01, UIM-01 and VF PLUS-01) voted in support of the reference back and 111 Councillors (ANC-87, EFF-19, ABC-02, ATM-01, NFP-01 and PRM-01) voted against the reference back.

*Thereafter the reference back, was by the majority vote, **NOT CARRIED.***

Discussions thereafter reverted back to the substantive matter.

ADOPTED, by the majority vote, with the DA voting against the matter.

8.

NOTING REASONS FOR PROPOSED AMENDMENT OF CONTRACT 1H-31143 IN TERMS OF SECTION 116(3) OF THE MUNICIPAL FINANCE MANAGEMENT ACT NO 56 OF 2003 FOR DONNELLY ROAD PROJECT (22/7/1/1/3)

(Page 63)

The Donnelly Road Project is centered on the development of Community Residential Units (CRUs) in Ward 66, in the Bluff area. The project's objective is to deliver approximately 128 CRUs upon its completion. However, shortly after the project began on site the contractor experienced various challenges and the project could not move with the pace that was anticipated. The following were the challenges:

Construction of New Temporary Parking:

The contractor could not fully establish its site camp due to the existing residents parking their vehicles on part of the area that was allocated for the contractors site camp. To ensure that there is no interference by the existing residents it was decided to alienate the existing residents and their cars from the live site area, An alternative parking area was identified at the back of the existing residences away from the construction works and the contractor was instructed to construct a temporary parking at this identified area. In this way there would be no interference by existing residents

with the site of works. A separate vehicular and pedestrian access had to be allowed as well. This process took an additional 4 weeks to complete and whilst this was being done, the contractor could not work on the actual construction site per say and this delay was 116 days.

Damaged Unsuitable Founding Conditions:

The design of the foundations for the Block A, B and C was determined largely by the information provided by the original geotechnical report carried out in 2015. When the deep excavations began in July 2021, it was discovered that the excavations for the retaining walls [in excess of 4m] were posing a continuous problem because of the collapsible soils and continuous protection of banks such that the cut banks did not collapse on the roadway and also did not undermine the existing buildings within the property- additional precautions had to be taken by the contractor which led to a delay.

Civil Unrest – Looting and Riots:

Due to the civil unrest, looting and rioting that took place in KwaZulu-Natal during the period July 2021 resulting in road blockages, riots and property destruction which rendered travelling unsafe and the site inaccessible.

Civil Unrest Resulting in Inability to Obtain Material:

Due to the civil unrest and looting, the contractor was unable to procure vital building materials as its suppliers had been looted and buildings/storage yards set on fire. As a result, important building materials could not be procured for the site and the contractor had to wait until new stock was sent to the supplier from the manufacturers.

Storm and Flooding:

Torrential downpours and abnormal rainfall from 11 to 13 April 2022 caused extensive flooding and damage to the site of works. Further the site was not accessible and the main feeder roads to the site were flooded and all access to the site was closed. Extensive damage took place on site with walls in progress of being built collapsing as well. Further consequential delays due to the damage on site.

Rain Delays:

Various rain and consequential delays from the start of the work on site.

The key stakeholders were consulted on the above-mentioned challenges. However, according to the Joint Building Contract Committee, the Contractor is entitled to submit claims in the event where conditions were beyond control affecting the set deadline. In this regard, the Contractor submitted claims for extension of time for practical completion and the contract duration was duly extended and noted by the Bid Adjudication Committee in its meeting of 15 May 2024. It should be noted that the physical works progress in Donnelly Road is currently sitting at 60%.

Given the above challenges and, in line with the requirements of Section 116(3) of the Local Government: Municipal Finance Management Act No 56 of 2003, the Council is requested to note the rationale behind proposing amendment of Contract 1H-31143 for the Donnelly Road Project for period of nineteen (19) months, with practical completion anticipated by 17 December 2025.

The Committee noted that the current contract is due to expire, and also appreciating detailed background on the reasons for the delays in completing the project, accordingly,

COMMITTEE RECOMMENDS:

- 8.1 That Council notes the reasons for proposed major amendments to the existing contract, in terms of Section 116(3) of the Municipal Finance Management Act No. 56 of 2003 to extend period of performance for nineteen (19) months under Contract 1H-31143 for Donnelly Road project, with a practical completion date to be then revised to 17 December 2025, as per the reasons outlined in the preamble and giving details of the following delay factors:
- (i) Construction of New Temporary Parking;
 - (ii) Damaged Unsuitable Founding Conditions;
 - (iii) Civil Unrest – Looting and Riots;
 - (iv) Civil Unrest Resulting in Inability to Obtain Material;
 - (v) Storm and Flooding; and
 - (vi) Rain Delays.
- 8.2 That Council notes the intention to amend the contract was advertised, as per the statutory requirement, and there were no objections received in this regard.
- 8.3 That subject to the adoption of the .1 above, the City Manager record the reasons for any deviations and report it to the next meeting of Council and include it as a note to the annual financial statements.

ADOPTED.

9. NOTING REASONS FOR PROPOSED AMENDMENT OF CONTRACT AUTHORITY, IN TERMS OF SECTION 116(3) OF THE MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003, UNDER CONTRACT 1H-142876 FOR PROFESSIONAL TEAM SERVICES OF THE DONNELLY ROAD PROJECT (2/7/1/1/3)7377

(Page 83)

Two Service providers were appointed through a normal public tender process to undertake a range of built environment professional services that included *inter alia*, Project Management; Engineering (Electrical, Civil & Structural), Architecture and Quantity Surveying for the development of 128 Community Residential Units in the under the Donnelly Road Community Residential Unit (CRU) project in Ward 66.

The built environment professional services have been subjected to similar challenges outlined item 8. Above in view of the service rendered for the same Donnelly Road CRU project. Therefore, the concurrent contract amendment is required, and with this to attract additional financial implications.

With the amendment of the professional services being unavoidable given the amendment of the actual Donnelly Road CRU project, accordingly,

COMMITTEE RECOMMENDS:

- 9.1 That Council notes the reasons for proposed amendments to the professional services team contracts, in terms of Section 116(3) of the Municipal Finance Management Act No. 56 of 2003, and impacting Contracts 1H-142876 and 1H-142874 as follows:
- (i) 1H-142876 – Project Manager Contract for a service provider to implement Donnelly Road Project, Ward 66 – extension of contract authority by R1 080 466.47 (One Million and Eighty Thousand Four Hundred and Sixty-Six Rand Forty-Seven Cents) excluding VAT.
 - (ii) 1H-142874 – Professional services contract for the design and implementation of Donnelly Road Project, Ward 66 – extension of contract authority by R2 531 955.13 (Two Million Five Hundred and Thirty-One Thousand Nine Hundred and Fifty-Five Rand Thirteen Cents) excluding VAT.
- 9.2 That Council notes the intention to amend the contract was advertised, as per the statutory requirement, and there were no objections received in this regard.
- 9.3 That subject to the adoption of .1 above, the City Manager record the reasons for any deviations and report it to the next meeting of Council and include it as a note to the annual financial statements.

Financial Implication:

Original Contract Value awarded to the Professional Team:

Service Provider	Contract value as per appointment incl. Previous Extension (excl. VAT) (A)	Expenditure to date (excl. VAT) (B)	Remaining Authority (excl. VAT) (C= A-B)
Project Manager Fees Contractor	R1 176 956.94	R1 071 030.82	R105 926.12
Professional Team Fees Contractor	R4 035 276.28	R3 701 987.50	R333 288.78
TOTAL	R5 212 233.22	R 4 773 018.32	R439 214.90

Request for Additional Financial Authority:

The revised fee calculation is based on the revised contract period:

Original contract period: 17 May 2021 to 18 July 2022 = 14months
Revised contract period: 17 May 2021 to 15 December 2025 = 55months

Service Provider	Additional Authority (Excl. VAT) D	Additional Authority (% of original) (D / A)	VAT @ 15 %	Total Additional Authority (incl. VAT)
Project Manager Fees	R1 080 466.47	92%	R162 069.97	R1 242 536.44
Professional Team Fees	R2 531 955.13	63%	R379 793.27	R2 911 748.40
TOTAL	R3 612 421.60	69%	R541 863.24	R4 154 284.84

ADOPTED.

10. APPROVAL OF THE AUDIT AND RISK COMMITTEE CHARTER (2/10/1/1)

(Page 156)

The Audit and Risk Committee is one of the vital structures that ensures that the Municipality maintains financial stability and promotes good corporate governance. It is therefore crucial to ensure that the Audit Committee Charter is reviewed annually to monitor performance of the Committee, its Members, the Constitution, and the Terms of Reference, aiming to enhance its operational efficiency.

The Audit & Risk Committee Charter is reviewed annually, as per the statutory requirement. Accordingly, the reviewed 2024/2025 Audit and Risk Committee Charter is submitted for approval to serve as a guiding document as the Committee fulfils its role as an independent advisory body to the Municipal Council, Political Office Bearers, Accounting Officer, Management and staff of the Municipality, including the Municipal Entities.

Accordingly,

COMMITTEE RECOMMENDS:

That, in line with the requirements of Section 166 of the Municipal Finance Management Act No. 56 of 2003, King IV Report on Corporate Government for South Africa, whereby the Audit and Risk Committee Charter requires an annual review and update to ensure relevance and consistency with the MFMA, Municipal Systems Act (No.32 of 2000) and the other related regulations, guides and best practice, the reviewed and updated Audit and Risk Committee Charter for the 2024/2025 financial year, attached to the report of the Audit & Risk Committee Chairperson dated 2024-05-06, be approved.

ADOPTED

11. NOTING OF REASONS FOR PROPOSED AMENDMENT OF CONTRACT PERIOD UNDER CONTRACT NUMBER 1A-1094, IN TERMS OF SECTION 116(3) OF THE MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003, FOR THE PROVISION OF LEGAL SERVICES BY A PANEL OF ATTORNEYS (8/2/1/6/2)

(Page 190)

Given the magnitude of the Municipal operations and potential litigations from time to time, the Legal & Compliance Services supplement its internal resources with external attorneys. This is to avoid delays in resolving court cases, which approach is in the best interest of the Municipality to quickly determine a way forward on matters under litigation and be able to then achieve business continuity for effective and sustainable service delivery.

Furthermore, some of the legal matters require the intervention of specialist attorneys and therefore could not be performed in-house, e.g. conveyancing work, which is reserved for practicing Conveyancers; Appeals Authority for the supply chain management tender objections, which by law, emphasis is on achieving independency and impartiality, hence the involvement of external attorneys.

Contract No.1A-1094 was secured and initially the Legal and Compliance Unit intended securing a number of sixty (60) service providers. However, due to the non-responsiveness of some of the bids, the Unit managed to secure only nine (09) service providers. As this was inadequate, the Unit then advertised a second tender to ensure sufficient legal support, hence, the existing additional Contract No. 1A-4258, and expiring 28 February 2026.

The intention then is to align the end period of these two contracts, for both to end 28 February 2026. This will assist the Municipality to ensure adequate representation in legal matters whilst also saving time and resources associated with the commencement of a new tender process.

Therefore, it is requested that Council notes the reasons to amend Contract No. 1A-1094 for a further period of thirteen (13) months from the expiry date of 31 January 2025 to now expire 28 February 2026.

With the Committee understanding the rationale behind amending period of Contract No. 1A-1094 based on cost-effectiveness and provision of sufficient legal support Municipal-wide, accordingly,

COMMITTEE RECOMMENDS:

- 11.1 That Council notes the reasons for the proposed amendment to Contract No. 1A-1094, in terms of Section 116(3) of the Municipal Finance Management Act No. 56 of 2003, for the provision of legal support by the appointed external Attorneys, thus amending contract period for a further thirteen (13) months from the expiry date of 31 January 2025 to now expiry 28 December 2026 to ensure the necessary alignment with the additional Contract No. 1A-4258 secured for the same service thereby ensuring provision of sufficient legal support Municipal-wide.
- 11.2 That Council notes that a public notice to amend the contract was published on 15 March 2024 in the Ezasegagasini newspaper inviting comments from the public, and there were no comments received on the completion of the public participation process on 19 April 2024.

Welcoming the report, the IFP pointed out that consideration should be given to also opening opportunities for unemployed attorneys with a view to empowering and growing their legal practices.

ADOPTED.

At this stage of the proceedings (18h08-18h30), Council moved into Incommittee. Indication was therefore given that the remaining Agenda items would be considered at the meeting to be reconvened to continue with this Council meeting.

12. APPROVAL OF THE REVISED 2024-2025 MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (21/5/1)

(Page 214)

The Committee noted a statutory requirement to review the Municipal Spatial Development Framework (SDF) on an annual basis. The SDF is a key land use management tool which informs strategic choices and interventions, especially regarding the future growth and development within the Municipality. This has an important role to play in guiding and managing Municipal decisions relating to the use, development and planning of land. It is a legislative requirement and should resonate with the national and provincial Spatial Development Frameworks and priorities.

In noting the necessary compliance requirements,

COMMITTEE RECOMMENDS:

- 12.1 That the revised Municipal Spatial Development Framework (SDF) 2024-2025, submitted in line with the requirements of the Local Government: Municipal Systems Act No. 32 of 2000, and the Spatial Planning and Land Use Management Act 16 of 2013, be adopted, it being recorded that the public and stakeholder comments have been taken into account when finalising the Spatial Development Framework.
- 12.2 That, it be noted that upon adoption by the Council, the revised Municipal SDF 2024-2025 will be submitted to the MEC for Cooperative Governance and Traditional Affairs, and a notice of the Council resolution to adopt same will be placed in the KZN Provincial Gazette, in terms of Section 20(1) of the Spatial Planning and Land Use Management Act No. 16 of 2013, in fulfilment of the legislative requirements.

DEFERRED to the next meeting.

13. NOTING REASONS FOR PROPOSED AMENDMENT TO THE SCOPE OF CONTRACT WS.7377, IN TERMS OF SECTION 116 (3) OF THE MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003, TO INCLUDE KWADABEKA & KLAARWATER COMMUNITY RESIDENTIAL UNITS (24/3/6)

(Page 303)

The Cleansing and Solid Waste Unit is currently facing difficulties in maintaining cleanliness within the two (02) Community Residential Units (CRUs), Klaarwater and KwaDabeka. This is due to contract expiry. In order to ensure uninterrupted service delivery to the communities affected, the Unit opted to utilize its internal resources and engaged beneficiaries of the Expanded Public Works Programme.

However, this arrangement resulted in a significant increase in overtime costs, which ultimately became unsustainable. The Cleansing and Solid Waste Unit has Contract WS.7377 in place for domestic service, refuse collection, streets cleaning and litter picking within the eThekweni Municipal area.

This contract also covers the Inner-West Region. Therefore, it is considered to make economic sense to engage and amend its scope to cover the KwaDabeka and the Klaarwater CRUs.

It is against this background that a submission is made advising of the intention to amend Contract WS.7377, in terms of Section 116(3) of the MFMA to amend the scope of contract to include the two CRUs in question.

Accordingly,

COMMITTEE RECOMMENDS:

- 13.1 That Council notes the intention to use Section 116(3) of the Municipal Finance Management Act (MFMA) to amend the scope of the existing Contract WS.7377 for domestic service, refuse collection, streets cleaning and litter picking within the eThekweni Municipal area, to incorporate servicing of Klaarwater and KwaDabeka Community Residential Units (CRUs) for the remaining period until the contract expiry on 30 June 2026, in view of the service in the aforesaid CRUs halted due to contract expiry and, as part of overtime costs management in relation to internal resources that were utilised as an interim arrangement.
- 13.2 That Council notes the intention to amend the Contract referred to in .1 above was advertised accordingly, to solicit the views of the public, in line with the statutory requirements, and there were no objections received in this regard.
- 13.3 That Council notes that the contract authority of R102 024 890.97 (One Hundred and Two Million and Twenty Four Thousand Eight Hundred and Ninety Rand Ninety Seven Cents), excluding VAT, has increased by R18 323 393.90 (Eighteen Million Three Hundred and Twenty Three Thousand Three Hundred and Ninety Three Rand Ninety Cents), excluding VAT, to a total revised contract authority of R120 348 284.80 (One Hundred and Twenty Million Three Hundred and Forty Eight Thousand Two Hundred and Eighty Four Rand Eighty Cents), excluding VAT.

Financial Implications (Excluding VAT):

The authorized contract value is as follows:

Contract No.	Original Contract Authority (excl. VAT)	Contingencies and Escalation (excl. VAT)	Original Contract Period	Additional Authority Required (excl. VAT)	Revised Contract Authority (excl. VAT)
WS.7377	R88 717 296.48	R13 307 594.49	2023-07-01 to 2026-06-31	R18 323 393.90	R120 348 284. 80

- (i) The total additional authority value is 18% above the original estimate.
- (ii) Required Additional Authority Amount: R18 323 393.90 (Excl. VAT)
- (iii) FC NUMBER is 322-366-066
- (iv) The Unit has sufficient budget to cover the additional costs in:
- (v) (Vote No: 79630.10810.11.11300. 0000.MRC01.0010.

DEFERRED to the next meeting.

14. ADOPTION OF THE REVISED ETHEKWINI MUNICIPAL LAND USE SCHEME
COMPRISING FIVE SUB-SCHEMES: CENTRAL, NORTH, SOUTH, INNER
WEST AND OUTER WEST (21/7/R)

(Page 392)

The Annual Land Use Scheme review seeks to respond to planning trends highlighted during the year that need to be included to keep the scheme relevant and also to incorporate recommendations arising from the planning projects undertaken.

The Land Use Scheme under discussion has been amended to incorporate the categories outlined below:

A: Updating Land Use Definitions:

Truck Depot and Truck Stop

The amendment is necessary to provide a clear understanding of land uses that are permitted within these definitions especially, regarding freight vehicles. The City is currently experiencing backlogs and traffic congestion within areas such as Durban Harbor, Cato Ridge, Shongweni, Pinetown and Durban South. The amendment will permit truck staging areas, inclusive of stuffing and destuffing of goods, and allied uses, to reduce the congestion on the main transportation routes, this being along M4, M7, M19, N3 and N2 Provincial and National corridors.

B: Streamlining Processes:

This is to determine an approach to permit an increase in Floor Area, Coverage and Height and Amendment to Telecommunication Infrastructure (Cell Mast applications). The purpose of the amendment is to provide a clear understanding of how to apply for an increase in Floor Area, Coverage and Height or a combination, inclusive of the calculations that are required, to accommodate roof top antennae.

This will simplify the approval process while still complying with legislation for Telecommunication Infrastructure (cell masts applications) and the Provincial Norms and Standards.

C: Promoting Local Economic Development:

Health and Beauty Clinic:

This proposed amendment to the Scheme is in response to local economic and land uses trends. Currently a Health and Beauty Clinic is only by Special Consent, but many are small operations that can be classified as Home Businesses, which only require Consent.

The Scheme will be amended to permit the owner or occupier of a Dwelling House to operate a Health and Beauty in three different formats with regards to the size of the operation as the current provision is not flexible. This in turn will promote employment opportunities for the operator and public and promote local economic development.

D: Implementing of Local Area Plans:

This review to cater for Brickfield, Sparks and Randles Project. This an area that has been under development pressure for the past 15-20 years, especially within the mixed use and medical precinct. The amendment is necessary to provide for developments rights to be updated and increase to permit a mix of land-uses, promote greater employment opportunities and generate a higher rates base for the City. This would make this precinct more responsive to the demand and become sustainable.

The Committee appreciated proactive measures to facilitate appropriate development and strategically growing the Municipality to realise its vision of becoming a caring City.

On this basis,

COMMITTEE RECOMMENDS:

- 14.1 That in terms of Section 19 of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) and the Spatial Planning and Land Use Management Act No. 16 of 2013; the Annual Review of the eThekweni Municipal Land Use Scheme, comprising five Planning Regions, namely, the Central, North, South, Inner West and the Outer West region and all the land use regulations pertaining to these areas be adopted for the following reasons:
 - 14.1.1 The Annual Scheme Review ensures compliance with the Spatial Planning and Land Use Management Act No. 16 of 2013, in that it gives effect to the development principles, as described in Chapter 2, Clause 7 (a), (b), (c), (d) and (e); and Chapter 5, Land Use Management, Clause 24 (1) of the Spatial Planning and Land Use Management Act No 16 of 2013.
 - 14.1.2 The reviewed Land Use Scheme is in alignment with the Spatial Development Framework of the Municipality and further refinements will be made on an ongoing basis.
 - 14.1.3 This Annual Scheme Review responds to the ever-changing development pressures and trends within the Municipality.

DEFERRED to the next meeting.

- 15. NOTING THE 2024/2025 INDIVIDUAL PERFORMANCE AGREEMENTS & INDIVIDUAL PERFORMANCE PLANS OF THE CITY MANAGER AND THE DEPUTY CITY MANAGERS (4/6/1)

(Page 452)

As per the statutory requirement, the 2024/2025 Performance Agreements and the Individual Performance Plans of the Managers appointed in terms of Section 54A and Section 56 of the Local Government: Municipal Systems Act No 32 of 2000, is submitted for noting purposes.

In accordance with Section 53(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, the Agreements must be made public no later than fourteen (14) days after the approval of the Service Delivery and Budget Implementation Plan (SDBIP).

Therefore, once the matter has served before the Municipal Council, the Agreements will be submitted to the MEC for Cooperative Governance and Traditional Affairs for informational purposes.

The Agreements pertains to individual Managers as per their respective areas of speciality aligned to the Municipal Clusters falling under their jurisdiction. Therefore, in addition to high level strategic objectives, the agreements focus on key service delivery mandate aligned to the fulfilment of the objects of the Municipality, as enshrined in Section 152 of the Constitution of the Republic of South Africa.

Accordingly,

COMMITTEE RECOMMENDS:

- 15.1 That Council notes the 2024-2025 Individual Performance Agreements and the Individual Performance Plans of the City Manager and the Deputy City Managers, appointed in terms of Section 54A and Section 56 of the Local Government: Municipal Systems Act No. 32 of 2000, with the Agreements developed as per the provisions of Section 53(3)(b) of the Local Government: Municipal Finance Management Act No. 56 of 2003, and the Agreements submitted relate to the Managers reflected in the table below:

No.	Name	Designation
1.	Mr. Bongumusa Mbhele	City Manager: eThekweni Municipality
2.	Dr Sandile Mnguni	Deputy City Manager: Finance
3.	Mr. Siphon Cele	Deputy City Manager: Governance & International Relations
4.	Dr Musa Gumede	Deputy City Manager: Community & Emergency Services
5.	Ms Kim Makhathini	Deputy City Manager: Corporate & Human Capital
6.	Mr. Sibusiso Makhanya	Deputy City Manager: Trading Services
7.	Mr. Lawrence Pato	Acting Deputy City Manager: Human Settlements Engineering and Transport
8.	Mr. George Mohlakoana	Acting Chief Operations Officer

- 15.2 That upon the Council noting the agreements as per .1 above, the documents will be submitted to the MEC for Cooperative Governance and Traditional Affairs for information purposes.

DEFERRED to the next meeting.

16. APPROVAL OF THE FINAL 2024-2025 SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (2/10/1/1/9)

(Page 595)

The 2024-25 Service Delivery and Budget Implementation Plan (SDBIP) is submitted in line with the requirements of Section 53(1) of the Municipal Finance Management Act No. 56 of 2003, which prescribes the adoption of the SDBIP within twenty-eight (28) days upon the approval of the annual budget.

It will be recalled that the annual budget was approved 03 May 2024, and the SDBIP is submitted as part of the necessary compliance requirements.

Accordingly,

COMMITTEE RECOMMENDS:

That in terms of Section 53(1) of the Local Government: Municipal Finance Management Act No. 56 of 2003, the final eThekweni Municipality (including its entities) Service Delivery and Budget Implementation Plan (SDBIP) for the 2024/2025 financial year, with a breakdown per the respective Clusters contained in the City Manager's report dated 2024-05-23, be approved, and with the SDBIP document also circulated separately for ease of reference.

DEFERRED to the next meeting.

17. NOTING INTENTION TO AMEND, IN TERMS OF SECTION 116(3) OF THE MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003, CONTRACT NO. 1J-24508: FOR THE PROVISION OF ON-ROAD AUTOMOTIVE FUEL, WITH AN AUTOMATED FUELING SOLUTION (8/3/1/R)

(Laid-on-Table)

The City Fleet Unit is in a process to award a long-term contract in terms of Section 33 of the Local Government: Municipal Finance Management Act No. 56 of 2003. Currently, the Unit operates through a 12-month contract, expiring 31 July 2024, to supply fuel for the Municipal vehicles.

In view of the Section 33 award pending, and with this award including installation of a tracking and monitoring device into the vehicles, which process will take approximately between 3-6 months, the Unit considers it imperative to then request to amend the existing short-term contract for a further 12-month period. The Committee noted the rationale behind amending Contract No. 1J-24508, and accordingly,

COMMITTEE RECOMMENDS:

- 17.1 That Council notes reasons for proposed amendments to Contract No. 1J-24508, in terms of Section 116(3)(a) and (b) of the Municipal Finance Management Act (MFMA) No. 56 of 2003, for the Provision of On-Road Automotive Fuel, with an automated fueling solution, for a further period of twelve (12) months, pending the finalisation of a long-term contract in terms of Section 33 of the MFMA, which process is currently underway.
- 17.2 That Council notes that there were no comments or objections received from the public or any other interested parties in terms of the public advert that closed 14 June 2024.

Financial Authority:

Financial authority has been allocated and approved as follows:

Budget	Amount Excl. VAT	Vote Number
Initial Contract Value	R484 347 900.00	Various 14110 10 12120 0000 MRC01 0010
Additional Amount	R480 000 000.00	
Total Amount	R964 347 900.00	

DEFERRED to the next meeting.

18. NOTING OF REASONS TO AMEND CONTRACT NO. WS 7154 IN TERMS OF SECTION 116(3) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003 FOR DESIGN, SUPPLY AND INSTALLATION OF ALTERNATIVE ON-SITE SANITATION TECHNOLOGY TO REPLACE PIT TOILETS IN THE ETHEKWINI MUNICIPAL AREA (22/2/R).

(Laid-on-Table)

eThekweni Municipality is currently facing significant backlog in the provision of acceptable sanitation, mainly, to previously disadvantaged and marginalized communities. This is due to lack of bulk sewer infrastructure and funding constraints. Therefore, the most viable option is to install onsite infrastructure, inclusive of urine diversion toilets and any other proven form of on-site sanitation technology.

The Water and Sanitation Unit has contract in place, Contract WS7154, for design, supply and installation of alternative on-site sanitation technology to replace pit toilets within the eThekweni Municipal area. A total of seven thousand three hundred and fifty-eight units (7 358) were allocated to three (03) service providers for the provision of on-site sanitation technology. Of the 7 358 units, a number of five thousand eight hundred and twenty-six (5 826) units have been completed and vetted accordingly for quality purposes, and this representing 79.18% achievement in terms of progress.

Thereafter, delays were encountered in the implementation of this program, due to storm disasters that have caused severe damages, and the consequential rain damages drastically impacting progress in the installation of the alternative solution units. The Unit has also had to deal with a number of additional requests for this technology, which led to the Council approving additional funding for this purpose.

Due to the delays, a request is therefore submitted to amend the period of contract for a further 12-month period to enable completion of outstanding six thousand three hundred (6 300) units, and to find time to utilise the Council-approved additional budget. The existing contract expires 30 June 2024.

In view thereof,

COMMITTEE RECOMMENDS:

- 7.1 That Council notes the reasons to amend Contract No. WS7154, in terms of Section 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, for design, supply and installation of alternative on-site sanitation technology, for a further period of 12 months, expiring 30 June 2025, to replace pit toilets within the eThekweni Municipal area, and the reasons for the delays incurred in the project including:
- (i) The rain and the declared storm disaster having an impact on project progress.
 - (ii) The additional budget approved by Council in May 2024 for more material (R100 million) which will require more time to complete the new Units to be allocated, estimated at +- 6300 Units.
 - (iii) Time required for an assessment of completed installed Units.

- (iv) Time required for a new procurement process in order to improve and standardize the design specification of the Alternative Sanitation Solution to be provided as per customer satisfaction, it being noted that the current technologies differ in terms of the design specification which resulted in different unit prices, varying from R24 000.00 (Twenty Four Thousand Rand) to R34 000.00 (Thirty Four Thousand Rand) per unit, and the variance being a result of one solution having two pits, whereas the others had one.

7.2 The Council notes the public participation process advertised through the media, in terms of Section 116(3) of the MFMA, as part of achieving compliance requirements pertaining to the public participation process, with feedback thereon to be reported to the Council.

7.3 The financial implications of the proposed amendment are that the contract authority of R450 000 000.00 (Four Hundred and Fifty Million Rand), excluding VAT, be increased by 20%, i.e. R90 000 000.00 (Ninety Million Rand), excluding VAT, to then revise contract authority to R540 000 000.00 (Five Hundred and Forty Million Rand), excluding VAT, and the contract be amended by a further twelve (12) month period to then expire 30 June 2025.

Financial:

The proposed amendments will have financial implications on contract no. WS7154 as indicated below:
Summary of the Financial Status of Contract No. WS 7154

Item No.	Description	Amount (Excl. VAT)
1	Average Net Unit Cost (Excluding VAT)	R28 000.00
2	Allowance for Contingencies (10%)	R0.00
3	Allowance for Escalation	R12 000 000.00
4	Current Financial Authority	R450 000,000.00
5	Payments to date	R289 000 000.00
6	Add: Estimated increase in Contract Budget (20%)	R90 000 000.00
7	Revised Contract Financial Authority	R540 000 000.00

Financial Year	Budget Provision	Comment
2024/2025	R48 000 000.00	Provided
Project No. Y8792		

DEFERRED to the next meeting.

REPORT OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

FIRST REPORT OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

1. **UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL (UIFW) EXPENDITURE: MULTIPLE FINANCIAL YEARS**
(as contained in the Council Agenda 2024-06-25)

BACKGROUND

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

The section reads as follows:

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

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

ANALYSIS OF UIFW CASES FINALISED

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

- A report was prepared by the Unit that incurred irregular expenditure after investigation by the said Unit. The report disclosed the deviation from Supply Chain Management Policy, the reasons for the deviation and the value of the expenditure.
- The report together with the supporting documents were submitted to the Internal Control Unit for review and thereafter were submitted to the Bid Adjudication Committee for noting purposes.
- The Internal Control Unit reviewed and applied its mind on the report and considered whether there was any value for money obtained by the municipality or any losses suffered by the municipality due to non-compliance detected using the following questions:
 - (a) The nature of the irregularity
 - (b) Whether or not the contracts followed the SCM public tender process
 - (c) Whether or not the Unit Head had certified that value for money was received

- (d) Whether or not the Unit Head has confirmed that goods or services were delivered as per contract specifications and initial contract rates
 - (e) Whether corrective action needed to be undertaken
 - (f) Whether preventative measures were required to be implemented and the status of such actions; where deemed necessary
- Irregularities were identified through investigations by the City Integrity & Investigations Unit.

Irregular, Fruitless & Wasteful expenditure totaling **R24,866,995.00** (Twenty-four million eight hundred sixty-six thousand nine hundred ninety-five rands) was identified as follows:

Source	Annexure	Amount
City Integrity & Investigations Unit	A	R24,133,970.00
	B	R733,025.00
TOTAL		R24,866,995.00

Furthermore, Fruitless and Wasteful expenditure amounting to **R733,025.00** (Seven hundred thirty-three thousand twenty-five hundred rands) was deemed recoverable as a result of investigations undertaken by the City Integrity and Investigations Unit.

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

Having duly considered and deliberated on the IFW 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 **R24,866,995.00** (Twenty-four million eight hundred sixty-six thousand nine hundred ninety-five rands) as detailed in “**Annexure A** 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 **R733,025.00** (Seven hundred thirty-three thousand twenty-five hundred rands) as detailed in **Annexure B** of this report be recovered from the relevant or former officials of the Municipality as well as entities and service providers.

- 1.3 That it be noted that any consequence management recommendations will be dealt with in accordance with the Council Policy in relation to financial misconduct and oversight by the Financial Misconduct Disciplinary Board.

DEFERRED to the next meeting.

SECOND REPORT OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

2. **UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE FROM PERIOD 1ST JULY 2023 TO 31ST MARCH 2024: LOCAL CONTENT**
(as contained in the Council Supplementary Agenda 2024-06-25)

BACKGROUND

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

The section reads as follows:

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

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

ANALYSIS OF UIFW CASES FINALISED

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

- A report was prepared by the Unit that incurred irregular expenditure after investigation by the said Unit. The report disclosed the deviation from Supply Chain Management Policy, the reasons for the deviation and the value of the expenditure.
- The report together with the supporting documents were submitted to the Internal Control Unit for review and thereafter were submitted to the Bid Adjudication Committee for noting purposes.

- The Internal Control Unit reviewed and applied its mind on the report and considered whether there was any value for money obtained by the municipality or any losses suffered by the municipality due to non-compliance detected using the following questions:
 - (a) The nature of the irregularity
 - (b) Whether or not the contracts followed the SCM public tender process
 - (c) Whether or not the Unit Head had certified that value for money was received
 - (d) Whether or not the Unit Head has confirmed that goods or services were delivered as per contract specifications and initial contract rates
 - (e) Whether corrective action needed to be undertaken
 - (f) Whether preventative measures were required to be implemented and the status of such actions; where deemed necessary

The Office of the Auditor-General South Africa, during an audit, identified non-compliance with Regulation 8(1) and (2) of the Preferential Procurement Regulations (PPR) 2017. The Regulations required an organ of state to, in the case of a designated sector, advertise the invitation to tender with a specification condition that only locally produced goods or locally manufactured goods, meeting a stipulated minimum threshold for local production and content would be considered.

We noted that 85 contracts had been awarded by the Municipality in contravention of local content provisions. The details of the contracts are reflected in **Annexure A** attached hereto. The contracts have a total value of **R931,345,188.13** (Nine hundred thirty-one million three hundred forty-five thousand one hundred eighty-eight rands and thirteen cents). All these contracts were acquired through public tender processes.

It should be noted that we previously supported a write-off of R495,377,082.01 (four hundred ninety-five million three hundred seventy-seven thousand eighty-two rands and one cent) relative to Local Content in the past financial year. In relation thereto, we further supported a write off of R2,030,763,586.25 (Two billion, thirty million, seven hundred sixty-three thousand, five hundred eighty-six rands and twenty-five cents) in February 2024. As the contracts were deemed irregular by the Auditor-General from inception, all expenditure incurred until the contracts end will be irregular.

We interviewed the Acting Head: Supply Chain Management to establish the root cause of the non-compliance and we have received the assurance that there was no breach of the Municipal Finance Management Act. It has been acknowledged that the root cause of the issue was due to oversight by Line Departments, Supply Chain Management and Bid Committees and that this was a mistake of a technical nature.

In addition, we have been informed that Preferential Procurement Regulations 2017 were repealed on 2023-01-15 as these Regulations were deemed unconstitutional. The Regulations were replaced by Preferential Procurement Regulations 2023. Local Content is no longer applicable in terms of these new Regulations. State Organs can now decide how they address Local Production and Local Content.

It should also be noted that some contracts have run their course and have reached their end dates. However, active contracts cannot be terminated as service providers have complied with all their contractual obligations. These are contracts that will continue to incur irregular expenditure until the contractual period ends. Many other tenders which were still in the procurement processes were not awarded, thus preventing irregular expenditure.

Having duly considered and deliberated on the irregular expenditure concerned,

COMMITTEE RECOMMENDS:

- 2.1 That, having examined the reasons provided for the Irregular Expenditure incurred on various contracts due to non-compliance with Local Content requirements, the amount of **R931,345,188.13** (Nine hundred thirty-one million three hundred forty-five thousand one hundred eighty-eight rands and thirteen cents) be written off on the basis that the matter be submitted for consequence management processes to be instituted.
- 2.2 That it be noted that any consequence management recommendations will be dealt with in accordance with the Council Policy in relation to financial misconduct and oversight by the Financial Misconduct Disciplinary Board.

DEFERRED to the next meeting.

REPORT OF COMMITTEE DECISIONS

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

1. **ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE**

Meeting held on : 2024-03-20

2. **EXECUTIVE COMMITTEE**

Meetings held on : 2024-03-12
: 2024-03-18 (Ordinary)
: 2024-03-18 (Special)
: 2024-03-22
: 2024-03-26

3. **FINANCE COMMITTEE**

Meeting held on : 2024-03-20

4. **GOVERNANCE AND HUMAN RESOURCES COMMITTEE**

Meeting held on : 2024-04-18

5. **HUMAN SETTLEMENTS AND INFRASTRUCTURE COMMITTEE**

Meeting held on : 2024-03-20

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

Meetings held on : 2024-02-22
: 2024-03-13
: 2024-04-12

7. SECURITY AND EMERGENCY SERVICES COMMITTEE

Meetings held on : 2024-03-13
: 2024-04-12

The Report of Committee Decisions, reflected on Page 32 the Agenda were,
DEFERRED to the next meeting.

ITEMS FOR NOTING

The Items for Noting, reflected on Pages 33 to 38 of the Agenda, pertaining to the items discussed and resolved at the Executive Committee level during the month of March 2024 were, **DEFERRED to the next meeting.**

The meeting terminated at 18h30.

APPROVED THE MEETING OF THE ETHEKWINI COUNCIL ON 2024-08-01.

SPEAKER