

No. 05

MINUTES

OF

ETHEKWINI MUNICIPAL COUNCIL

Meeting held on Thursday, 2022-01-27T10:00, through MS Teams, streamed from
Luthuli Hall, Durban.

PRESENT : Councillors TE Nyawose (Speaker), TM Kaunda (Mayor), PG Mavundla (Deputy Mayor), A Abdul ; J Annipen, AD Beesley, A Beetge, S Bhanprakash, M Billy, T Biyela, JM Davies-Black, NJ Bollman, M Brauteseth, WJD Burne, MH Buthelezi, KPM Cele, SB Cele, SP Chebure, J Chetty, GD Clarivette, SV De Boer, Z Dzanibe, J Essop, BA Fortein, SN Gabela, DM Gcabashe, NBC Godlwana; R Gokool, G Govender, S Govender, Y Govender, NL Graham; BR Gumede, NC Gumede, S Gumede, BM Gwala, MS Gwala, GJ Hegter, NP Hlomuka, SD Hlongwa, F Ismail, MF Ismail, LBS Jali, DM James, M Johnson, MA Jokweni, K Khambule, MH Khan, MB Khoza, KNN Khubone, NL Khuzwayo, ZW Khuzwayo, SNC Khwela, A Kissoon, BG Kubheka, V Kunju, CJ Laing, CB Langa, SW Lushaba, M Lutchmen, WM Luthuli, ME Mabaso, MA Madlala, NI Madlala, SR Madlala; S Maharaj, FN Majola, TG Makhanya, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, KT Mbhele, RP Mbonambi, BA Mchunu, SW Mcineka; RL McKenzie, X Mdlazi, FW Mdletshe, SM Memela, SP Mfeka, GN Mhlongo, NM Mhlongo, SE Mhlongo, T Miya, MB Mjadu, AZ Mkhize, KV Mkhize, MA Mkhize, ME Mkhize, MP Mkhize, NN Mkhize, NA Mkhize, P Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, BR Mngadi, DK Mngadi, E Mngadi, S Mngadi, SV Mngadi, MR Mngonyama; TJ Mnguni, BV Mngwengwe, PB Mnikathi; ZO Mnomiya, S Mnyandu; T Mohamed, ND Motseke, SB Mpanza, NP Msibi, LI Msomi, NP Msomi, LG Mthembu, SSS Mthethwa, TM Mthethwa, N Munien, OB Mvubu, ZP Myeni, SK Mzimela, BD Naidoo; J Naidoo, M Nair, V Ncukana, WP Ndiweni, NB Ndlela, AB Ndlovu, MF Ndlovu, PB Ndlovu, NS Ndlovu, V Ndlovu, SG Nene, TH Nene, SP Ngcobo, SB Ngcongo, DB Ngubane, LE Nkomeni, MS Nkosi, DR Nowbuth, XM Nqweniso; DM Nsundwane, PC Ntshangase, SH Ntombela, BT Ntuli, N Ntuli, NZ Ntuli; PB Ntuli, B Nxumalo, PH Nxumalo, AAK Paruk, BW Phewa, DT Pillay, DR Pillay, P Pillay, GDA Pullan, A Rampersad, VG Reddy, T Sabelo, S Sewshanker, A Shaheed, BH Shange, LP Shange; MG Shange, TE Shezi, IM Shinga, JN Sibisi, KS Sibisi, N Sibiya, LC Sikhakhane, BSB Sindane, EL Singh, J Singh, S Singh ;PS Sishange, CN Sisoka, NI Sithole, BS Sivetye, EG Smith, AD Snyman, ZR Sokhabase, ZA Solomon, I Syed, BB Thusi, ME Thusi, M Thusi, ZN Tshazela, NT Tyelinzima, JC Van den Berg, HM Van Der Ryst, NB Vilakazi, NI Webster, SM Windvogel, TV Xulu, T Xuma, NY Young; ON Zondi, N Zondi, TG Zungu, and there being two (2) vacancies.

ABSENT : Councillors R Cloete, TP Collins, GM Gasa, FO Gcabashe, MM Hlengwa; RD Macpherson, A Maharajh (Leave – Indisposed), HS Makhathini, K Mhlaba (Leave – Indisposed), MV Molife, SR Moodley, TD Mthethwa, S Ngema, MR Nxumalo (Leave – Indisposed), NN Nyanisa, MV Nzimande-Madlala; HP Shozi and M Zondi.

AMAKHOSI

PRESENT : None.

AMAKHOSI

ABSENT : Inkosi EB Shozi (Leave – Municipal Business), Inkosi J Shangase and Inkosi S Mlaba.

OFFICIALS

PRESENT : Messrs/Mesdames M Mbhele (Acting City Manager), M Mhlongo (Acting Chief Operations Officer), A Seheri (Head: City Administration & Secretariat); BM Mhlongo (Deputy Head: Office of the Speaker), T Ndlovu (Senior Manager: Secretariat), M Lelosa (Manager: Council Committees) and SC Zondi (Chief Committee Officer).

(At the commencement of the meeting 182 Councillors were present, comprising ANC - 79, DA - 45, EFF - 24, IFP - 15, ASA - 03, ABC - 01, ACC – 02; ACDP - 02, AIC -00, DLC - 01, ADEC - 01, APF - 00, ATM - 00, AL JAMA-AH - 01, JEP - 01, KZNI - 01, MF - 00, MOSA - 00, NFP - 01, PFP - 01, PRM - 01, TA- 01, UIM - 01 and VF Plus - 01).

1. NOTICE CONVENING THE MEETING

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

2. OPENING

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

3. AFRICAN UNION AND NATIONAL ANTHEM

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

4. OPPORTUNITY FOR PRAYER/MEDITATION

The Speaker requested Council to observe a moment's silence for everyone to meditate and in remembrance of the late Councillor Minenhle Calvin Mkhize who was brutally assassinated on Saturday, 2022-01-22.

(At this stage of the proceedings the Speaker invited the officials from Auditor General SA to present the 2020/2021 Annual Report)

5. PRESENTATION: 2020/2021 ETHEKWINI AUDIT REPORT

Ms Ntombifuthi Mhlongo, Business Unit Leader in the Office of the Auditor General presented the 2020/2021 eThekweni Municipality Audit Report, a copy of which was attached to the Supplementary Council Agenda for this meeting. She announced that eThekweni Municipality has received an unqualified audit opinion outcome for the 2020/2021 financial year. Its entities, Ushaka Marine Theme Park and the Inkosi Albert Luthuli International Convention Centre, received clean audit opinions. The report was based on the consolidated and separate financial statement of the Municipality as of 30 June 2021.

During her presentation she illustrated the regression in the audit outcomes from the 2018/19, 2019/20 and 2020/21 years in respect of eThekweni Municipality, Durban Marine Theme Park and the Inkosi Albert Luthuli International Convention Centre. She also touched on the status of findings on pre-determined objectives and on compliance.

Ms Mhlongo expressed concern with regard to the areas of non-compliance and irregular expenditure. However, she reported positive news for the Municipality with the reduction of irregular expenditure by almost thirty percent (30%). It was advised that much of the irregular expenditure related to deviations being approved, invalid amendments to Supply Chain Management contracts, competitive bidding processes not being followed, and uneconomical use of resources and goods obtained.

She indicated that the root causes for the majority of irregular expenditure was that action plans implemented were not adequate. Also, that certain control initiatives over the areas of consequence management, effective procurement planning as well as compliance monitoring over demand and contract management have not been fully and timeously implemented.

In respect of key projects, she spoke of the following:

- (i) She mentioned that the Integrated Rapid Public Transport Network (IRPTN) aims to provide a flexible, safe, cost effective and seamless transport experience for the people of eThekweni. Phase 1 of the IRPTN, which was prioritized around four (4) critical corridors, was expected to be completed on various dates from 2018 to 2020.

Corridor 3 was selected for audit in the 2020-21 financial year. The scope of Corridor 3 included, Bridge City to Pinetown and New Germany via MR 577 and comprises a length of some 27.5km.

Thereafter, it was reported that from inception of the corridor 3 project, the total amount of standing costs paid to date amounted to R116 707 921 for 10 work packages or contracts. Also, that the standing costs, confirmed by the Project Manager in a written response dated 4 November 2021, could not be verified due to a limitation of scope. It being mentioned that the lack of documentation to verify the standing costs claimed by the contractors over the various contracts can include costs that could have been avoided.

It was advised that a full review of the entire project will be done in the next financial year to evaluate if all standing costs are valid and were unavoidable.

There were no material findings on the project for the current year.

- (ii) She mentioned that the Roads – USDG Grant project related to the rehabilitation of Solomon Mahlangu Drive concrete pavement, dual carriageway between South Coast Rd and the N2 freeway.

The detailed scope of the project entailed the removal of the existing 170 millimeters (mm) continuously reinforced concrete pavement and replacing it with a high modulus asphalt base layer with an ultra-thin friction course as a final surfacing layer. The road section was 4130 meters long and has an average of three lanes per carriageway.

She reported that during the 2020/2021 audit it was noted that the project was delayed by 17 months due to the following:

- A lack of co-ordination between line departments to ensure reported issues are dealt with timeously between the water section and the roads section.
- Change in scope without ensuring funding was available and approved, resulting in lengthy SCM and approval processes.

She mentioned that as a result of the above; standing costs were claimed that could have been avoided had the above delays were dealt with timeously. Also, that a follow-up will be done in the next financial year to evaluate the total standing costs claimed by the contractor and if these costs could have been avoided if the Municipality had not defaulted.

- (iii) The last key project she made reference to was the Housing and Human Settlements – USDG and HSDG grant. She mentioned that in response to the COVID-19 pandemic, the Municipality initiated a strategy to de-densify informal settlements as a measure to provide proper housing to the homeless community in the eThekweni area.

The project was funded by a combination of USDG and HSDG. Two housing projects were earmarked to be expedited as part of the COVID-19 initiative of the Municipality.

She advised that findings were identified on timelines and quality, as critical project management and monitoring was not effectively conducted at key milestones dates of the project. Hence, the project was not completed within the planned completion date with quality defects such as structural cracks and exposed steel reinforcement bars were noted during the inspection of the structure of the houses (top structure).

Also, that during the 2020/2021 audit cycle a follow-up audit was conducted to determine the progress of the housing projects and it was noted that the housing projects were still not completed and quality defects identified were not rectified. These deficiencies were reported again in the current year audit.

In concluding her presentation, Ms Mhlongo submitted the following recommendations to Council to improve audit outcomes:

- Management should ensure that effective controls are implemented during the physical verification process over assets to ensure that capital work in progress assets are transferred to Property, Plant and Equipment when complete.

- Management should improve controls over demand management and planning to ensure that a competitive bidding process is followed.
- The Accounting Officer should implement and monitor effective consequence management structures within the Municipality to ensure disciplinary proceedings are instituted timeously and officials are held accountable for their actions.
- Management should integrate preventative controls into processes and procedures so that they are applied on a continuous basis and embedded into the control environment.
- Proper record keeping measures should be implemented to ensure that complete, relevant and accurate information is accessible and available to support performance reporting as well as compliance with applicable legislation.

Thereafter, Council members submitted the following:

- Council welcomed the presentation, and an enquiry was made regarding the timeframes being attached to the recommendations from the Auditor-General.
- It was highlighted that one of the issues raised by the Auditor-General and picked up by the Municipal Public Accounts Committee was record-keeping which was not being carried out effectively by the Municipality and that more improvement was required in this regard.
- It was noted that improvements made were encouraging. Further, that eThekweni was named the best performing Metro in the Country previously, together with the City's positive credit status, reflects the City leadership's commitment to ensuring service delivery. It being emphasized that there would be consequence management for employees who commit any wrongdoing, also that the City's leadership remain committed to monitoring expenditure to further reduce irregular expenditure.

In response, Ms Mhlongo advised that regular update in terms of the audit action plan to be developed by March 2022, will be submitted to the Executive Committee. Also, that in the interim regular audit is performed by the Office of the Auditor-General as a form of support provided to Municipalities.

With regards to record-keeping, it was advised that the finding was related to the Contact Call Centre – call out and that it has since been fixed by the service provider and no challenges should be expected going forward.

The Speaker reported that the Annual Report to be presented by His Worship, the Mayor in this meeting will be publicised for stakeholder input, including all Councillors. playing an oversight role prior to submitting the final draft for Council approval.

The Team from the Auditor-General's Office was thereafter thanked for their comprehensive presentation after which they disconnected from the meeting.

6. OFFICIAL ANNOUNCEMENTS

In his opening remarks, the Speaker mentioned that the City noted with concern, the Fire Incident that took place at China Mall on Friday, 2022-01-21. He urged the public to take necessary precautions to prevent re-occurrence of such incidents. Moreover, Council applauds the Fire Department and the Emergency Services Unit for their rapid response towards the incident with hope that the ongoing investigation on the incident would be accelerated.

He reported that the Municipality condemn the brutal killing of the ANC eThekweni Ward 103 Councillor Minenhle Calvin Mkhize who was gunned down outside his home on Saturday, 2022-01-22. On behalf of Council, he conveyed heartfelt condolences to the Mkhize family and the entire Ward 103 Community, with hope that justice would prevail against perpetrators.

Continuing with his announcements, the Speaker congratulated the KwaZulu-Natal Education MEC, Honourable Kwazi Mshengu, the entire Department of Education and the 2022 Matriculants for a remarkable pass rate achievement of seventy six comma eight percent (76.8%) despite amongst other disruptions such as COVID-19 and civil unrest incident which occurred during the year.

He mentioned that the Municipality acknowledges and supports, the re-opening of schools which commenced on 2022-01-29, and further wished learners at all levels well as they embark with their learning programmes during the first term and all other terms respectively. Also, that all planned go back to school initiatives were supported.

Speaking on COVID-19 matters, he advised that the Municipality supports the latest approved several changes to the adjusted Alert level 1 COVID-19 regulations as per the latest update received on 2021-12-31, and further emphasized to Councillors the importance to adhere to all COVID-19 protocols as part of interventions to curb the spread of the virus.

Councillors were advised that there was a compulsory SALGA Integrated Councillor Induction Programme (ICIP) scheduled from **Monday, 31 January to Friday, 04 February 2022 for all Councillors**. The said training will be held in four different venues namely:

- City Hall -Luthuli Hall
- Tongaat Hall
- Pinetown Civic Centre
- City Health Auditorium

The Speaker mentioned that all Councillors have been informed as to which of the four (04) venues they would be accommodated in, and that the Speaker's circular has been issued in this regard.

Regarding the Council proceedings, the Speaker reported that as part of ensuring smooth proceedings, the microphones of Party Leaders and Support Committee Chairpersons will remain unmuted for the duration of the meeting. Other Councillors will remain muted and only unmuted should they wish to talk. That even though some microphones will remain unmuted, a principle of raising a hand and being recognized by the Speaker before talking was still applicable.

Further, that the Speaker reserved the right to revert to the muted status should any of the Party Leaders or Chairpersons misuse the opportunity of having their microphones on.

The Speaker then conveyed her best wishes to all Councillors celebrating their birthdays during the month of January.

Thereafter, the attention was drawn to Rule of Order 16(1) (a)-(e) and (4), (5), (6), (7) and (9). As per these Rules, Councillors were requested to conduct themselves in a respectful manner, to refrain from interrupting the proceedings and were encouraged to conduct business with the highest decorum and integrity that the occasion and the residents of the Municipality deserve.

7. **SPEAKER'S REPORT**

The Speaker mentioned that the purpose of the report was to briefly outline to the Municipal Council activities that have and will take place in the Municipal Council in line with the provision of section 13(f) of the Rules of Order By-Law, 2014.

In this regard, the below items were brought for the attention of the Municipal Council:

PROVINCIAL SALGA'S MEMBERS ASSEMBLY

The Speaker reported that, as per SALGA's Constitution, the KZN SALGA held its Provincial Members Assembly on 13-14 January 2022, at the Inkosi Albert Luthuli International Convention Centre (ICC) to plan for the commencement of Council term 2021-2026, and elect Office Bearers, in line with the Constitution.

That the conference was successfully held, however, due to unforeseen circumstances, it was adjourned to Tuesday, 08 February 2022, to finalize the following items:

- Amendments to the SALGA Constitution
- Consideration of the PEC Report
- Election of Office Bearers

Further, that the same delegation as endorsed by the Municipal Council at its meeting held on 15 December 2021, comprising His Worship Mayor; Deputy Mayor; Speaker; Whip of Council; and the Acting City Manager, will be in attendance.

COUNCILLORS WORKSHOP: ESTABLISHMENT OF WARD COMMITTEES 2021-2026

It was advised that eThekweni Municipality has been established as a collective executive system with a ward participatory system. This implied that with the establishment of the Municipal Council, which was in November 2021, the Municipality was required within one hundred and twenty (120) days after that establishment to elect Ward Committees.

As a statutory requirement the Municipality should have a framework/policy approved by the Municipal Council that will guide the establishment and operation of the Ward Committees. That the aforesaid policy shall be considered by the Municipal Council in today's meeting, and once approved, a Workshop will be arranged for all Councillors to unpack the framework, giving them a broader understanding of the Ward Committee establishment process in preparation for the election process in this regard.

Council was advised that the Councillor Workshop referred to will be held early in February 2022, and details thereof will be communicated to all Councillors once confirmed. The Speaker mentioned that it was critical that all Municipal Council members attend the said Workshop to enable them to understand the Rules to be adhered to when electing Ward Committees and to input on the broader election plan.

COUNCILLORS DISCLOSURE OF INTEREST

The Municipal Council was advised of the requirement to disclose interest, in terms of section 8(2) of Schedule 7: Code of Conduct for Councillors, which reads:

“(2) Any change in the nature or detail of the financial interests of a Councillor must be declared in writing to the municipal manager annually”

Councillors were then reminded that, it being the beginning of a new calendar year, in the event that there are any changes in terms of financial interests as declared in their disclosure of interest forms, they update accordingly, so as to comply with the Code of Conduct.

Further, that a Speaker’s Circular will also be sent to all Councillors as a reminder on this compliance matter.

MUNICIPAL COUNCIL COMMITTEES

The Speaker reminded Councillors that Municipal Council Committees were accordingly established at its meeting held on 15 December 2021, and subsequent to that Committee Members have also been allocated accordingly.

He mentioned that the calendar of Council Committee meetings was also approved accordingly by the Municipal Council and all Support Committees will commence with their Inaugural meetings during the month of February 2022.

Councillors were requested to note that most of the Council Committee meetings will be held virtually since the COVID-19 pandemic was still very prevalent. This then necessitated that Council Members ensure that they have official e-mail addresses to be used for formal communication pertaining to Council business. It was noted that a number of Councillors are using private email addresses, which are changed without advising the Administration, this causes a challenge in terms of a correct database, and Councillors end up not timeously receiving meeting notifications and relevant information. Councillors were again requested that they confirm their preferred email addresses to use for all official Municipal business-related correspondence, which will be utilized throughout the Municipal Council term of office, to avoid unnecessary challenges.

Members were urged to confirm their email addresses with Ranjini Pather on Ranjini.Pather@durban.gov.za, and whenever there were changes in contact details.

MUNICIPAL COUNCIL MEMBERSHIP

Councillors were requested to note that since there had been a vacancy in Ward 101, a by-election will be held on 02 February 2022 to fill that vacancy. Further, that another vacancy has been created in Ward 103 following the tragic passing on of Ward Councillor MC Mkhize. That the vacancy shall be filled on a date to be confirmed by the IEC in due course.

Following a presentation of his Report, the Speaker took the opportunity to present a Report on the incident that had occurred during the Inaugural Council meeting held on 2021-11-22 at Moses Mabhida Stadium, where a group of outsiders disrupted the meeting. He mentioned that following a briefing session with the security personnel, it transpired that the group of outsiders had utilized entrances that had no security guards to access the meeting venue. He mentioned that the incident was regretted and it will not occur in future. In addition, he reported that a marquee was utilized as the meeting venues at the ICC were fully booked on the day of the Inaugural meeting.

Subsequently, some members expressed reservations on the report that was presented by the Speaker.

Members of the DA questioned the role of the Metro Police when the incident occurred and the scope of the Speakers investigation. They were dismayed by the report that other entrances at the Stadium had no security guards.

Meanwhile, the EFF indicated that they were partially covered by the DA and dismissed the report that was presented by the Speaker. They queried the events that led to security breach and highlighted that the perpetrators can be easily identified on the cameras.

Whereas the IFP submitted that it was evident from the Speaker's Report that there was security breach at the Moses Mabhida Stadium. They mentioned that there were also challenges with regards to the supply of electricity during the meeting. On this basis, they requested a formal Report in this regard.

The ANC welcomed the Report by the Speaker, and noted points raised by different political parties. They submitted that the marquee structure also posed a threat to the safety of people in the venue. Mention was made that to gain access to the Stadium could have been easier as there were other events in the Stadium on the same day of the Inaugural meeting. However, they emphasised that this was not a justification for the incident that had occurred.

In noting inputs from Council, the Speaker advised that procedurally, the Report of the Chairperson was not deliberated at the meeting. He mentioned that the issues be raised and deliberated at the Speaker's Committee comprising all Party Whips. Alternatively, that Council members can also submit formal queries to his office should there be a need and responses thereto will be furnished accordingly.

8.

APPLICATIONS FOR LEAVE OF ABSENCE

RESOLVED:

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

COUNCILLORS

Councillor A Maharajh	:	2022-01-07	Indisposed
Councillor K Mhlaba	:	2022-01-25 to 201-02-03	Indisposed
Councillor MR Nxumalo	:	2021-12-14 to 2021-01-10	Indisposed
Councillor BA Mchunu	:	Requested to be excused from the meeting at 12h00pm.	

AMAKHOSI

Inkosi EB Shozi

: 2022-01-27

On Municipal Business

9. **CONFIRMATION OF MINUTES: Meetings held 2021-11-22, 2021-11-24,
2021-12-15 and In-Committee Meeting held on 2021-12-15**

- 9.1 Councillor VG Reddy made reference to the items on page 4 and 5 of the Minutes for the Meeting held on 2021-11-22 and advised that the numbers in relation to voting score seem not to tally and had to be checked as two Council members were not accounted for. It was advised that the inputs submitted by the Councillor will be verified by administration.

Thereafter, Councillor VG Reddy moved for the adoption of the Minutes for the Meeting held on 2021-11-22 and was duly seconded by Councillor NI Madlala.

- 9.2 Councillor WD Burne moved for the adoption of the Minutes for the Meeting held on 2021-11-24 and was duly seconded by Councillor NI Madlala.

- 9.3 In respect of the Minutes for the Meeting held on 2021-12-15, Councillor WD Burne submitted a correction on page 36, to replace the words

“It was advised that ...” at the beginning of the second paragraph, with the following words:

“The Speaker requested a legal opinion on the matter relating to a proposal to amend Draft Rules of Order Second Amendment Bylaw at the stage of final approval of the Bylaw by Council. In providing a legal opinion, the Head: Legal and Compliance Services advised that”

The amendment by Councillor Burne was agreed to.

Thereafter, the Acting City Manager presented an amendment required on item 12 of page 39 of the Minutes as per his Report dated 2022-01-26 and which have been circulated to Councillors. He submitted that an amendment with respect to the aforesaid item of the resolution adopted on 15 December 2021 should read as follows:

“12.2 That Council approves the transfer of the Programme & Project Preparation Support Grant (PPPSG) in the amount of R40 349 190.00 (Forty Million Three Hundred and Forty Nine Thousand One Hundred and Ninety Rand) to Municipal Units for capital programmes and projects, it being recorded that there is a surplus of R9 599 810.00 (Nine Million Five Hundred and Ninety Nine Thousand Eight Hundred and Ten Rand) still to be allocated in future.”

Subsequently, His Worship, the Mayor moved for the adoption of the Minutes the Meeting held on 2021-12-15, as amended, and was duly seconded by Councillor NI Madlala.

Accordingly, it was

RESOLVED:

That the minutes of the meetings of the eThekweni Municipal Council held 2021-11-22, 2021-11-24, 2021-12-15 and In-Committee Meeting held on 2021-12-15, as circulated and amended, be and they are hereby confirmed.

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

Councillor NI Madlala requested deferral of the following questions that are included in the Agenda.

- 1. Questions submitted by Councillor M Billy : Delivery and Collection of Orange Recycling Bags:**
- 2. Questions submitted by Councillor Y Govender : Issue of Defective Streetlights:**
- 3. Questions submitted by Councillor NL Graham : Malfunction of Pump Stations:**
- 4. Questions submitted by Councillor M Nair : Living Conditions in Council Owned Flats in Mariannridge:**

He submitted that Support Committees had not yet convened to consider agenda items. He added that Councillors have not been given an opportunity to verify responses to questions in terms of authenticity, evidence as well as for Councillors to play an effective oversight role in this regard. Reference being made to Rule 27 (8) of the Rules of Order By-Law, which stipulates that:

“Where questions are submitted to Council in terms of this Rule, the Speaker must forward a copy of every question to the Chairperson of the relevant Committee and the Municipal Manager who must ensure that a response is given at the next Council meeting.”

Diverse views were expressed on the matter, as some Council members opposed the deferment of the item. Mention being made that all processes leading to the submission and consideration of the questions by Council have been followed. Further, that in the event of follow-up questions arising from the responses to those questions would be presented and addressed by the Support Committees.

Thereafter, His Worship, the Mayor seconded the submission made by Councillor NI Madlala.

As per the Rules of Orders, By-Law, consideration of the questions was deferred to the next Council meeting.

11. REPORTS:

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

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

FIRST REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2022-01-18)

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

1. SUNDRY GRANT-IN-AID DISTRIBUTION PROGRAMME (7/14/1/1)

(Page 61)

During consideration of the matter at the Executive Committee, the Democratic Alliance submitted that the expenditure amount being set aside for distribution events in six (06) Regions was unnecessary. That funding in this regard should go to Non-Government Organisations which play a crucial role in the provision of social relief to distressed individuals. Reservations were expressed that the selection criteria being utilized for the adjudication of Sundry Grant-In-Aid applications was not clearly outlined to allow for a fair and transparent distribution of funding.

Some Members of the Committee were satisfied with the level of support being given to the institutions driving projects of worthy cause. It being mentioned that the award distribution events form part of the Municipality's communication strategy to ensure that the public become aware of the City's programmes and to encourage other eligible organisations to submit their applications in future, taking into cognisance that not everyone can be catered for, with the current economic state.

Subsequently, the Democratic Alliance abstained on the matter and with the majority being in support;

COMMITTEE RECOMMENDS:

- 1.1 That authority be granted for the Head: Community Participation and Action Support to incur expenditure at a total cost of R10 700 000.00 (Ten Million Seven Hundred Thousand Rand) to distribute Grant-in-Aid to one hundred and seven (107) beneficiaries and host distribution events in the 2021/2022 financial year, details of which are contained in the report of the Head: Community Participation and Action Support dated 2021-09-20.
- 1.2 That the distribution events and logistics at a cost of R147 600.00 (One Hundred and Forty Seven Thousand Six Hundred Rand), be approved, it being noted that budget provision has been made for this request.

Financial Implications:

No.	Details	Amount
1	Hire of Community Halls per Region	R2 500 x 6 = R15 000.00
2	Fruits for 150 People per Region	R600 x 6 = R3 600.00
3	Water for 150 People per Region	R1 500 x 6 = R9 000.00
4	Entertainment per Region	R20 000 x 6 = R120 000.00
TOTAL		R147 600.00

Speaking on the matter, the ACDP acknowledged the sterling work of the Non-Government Organisations (NGOs) and the Non-Profit Organisations (NPOs). Pointing out that the support being provided by the Municipality will contribute to the much-needed social relief to deprived communities. On this basis, they supported the approval of the funding.

Members of the IFP also supported the initiative and they called for improvements in the manner that the programme was conducted, reference being made to the adjudication process. That the process had to be transparent and inclusive for all. Further, that programmes be developed to capacitate organisations that did not qualify, so that they do better in the forthcoming years.

Meanwhile, the EFF abstained on the matter and mentioned that further motivation for the funding had to be substantiated, it being mentioned that the organisations, required proper plans, organograms amongst other issues.

Thereafter, the ANC was satisfied with the level of support being given to the NGOs and NPOs and, also that this programme has been implemented over the years to provide social relief to communities. Council was assured that organisations that do not qualify were being capacitated. It was also emphasised that not everyone can be catered for, due to financial constraints. However, it was mentioned that the Municipality would seek partnerships with other stakeholders, including government departments to support the Sundry-Grant-In-Aid programme.

As some Councillors were not in support of the recommendations of the Executive Committee, the matter was put to the vote. With 200 Councillors present, 117 Councillors (ANC - 85, IFP - 15; ABC - 01, ACC - 02; ACDP - 02, AIC - 01, DLC - 01, ADEC - 01; APF - 01, ATM - 01, AL JAMA-AH - 01, JEP - 00, KZNI - 01, MF - 00, MOSA - 00, NFP - 01; PFP - 01, PRM - 01, TA- 01 and VF Plus - 01) voted in favour and 83 Councillors (DA - 54; EFF - 24 ; ASA - 04 and UIM - 01) abstained on the matter.

Accordingly, the recommendations were, by the majority vote, **ADOPTED.**

2. ETHEKWINI MUNICIPALITY MONTHLY PUBLIC TENDER AWARDS:
OCTOBER 2021 (9/1/3)

(Page 72)

In noting the report, Committee requested a detailed report on the effectiveness of the Blacklisting Committee, in order to make certain that prescribed procurement processes were followed, as it was alleged that Companies with profiled cases had managed to have their blacklisting status overturned.

However, explanation was given that the Municipality was in the process of reviving the Blacklisting Committee as the Chairperson's term of office had expired in September 2021.

Accordingly;

COMMITTEE RECOMMENDS:

- 2.1 That the public tender awards by the City for the month of October 2021, inclusive of awards made in terms of Section 36 of the Supply Chain Management Regulations, as contained in the report by the Acting City Manager dated 2021-11-17, be noted.
- 2.2 That it be noted that where information is available for Wards and registration numbers, it is included in the report, as information used to compile the report is taken from submissions made by the Units.
- 2.3 That the Finance, Security and Emergency Services Committee calls for additional information on individual awards, where it deems appropriate and necessary to play its oversight role.
- 2.4 That the Acting City Manager reserves the right to investigate the awards with a view to taking disciplinary, criminal and recovery actions where wilful and negligent violation of Supply Chain Management Policies and Municipal Finance Management Act provisions are observed.
- 2.5 That the Acting City Manager shall table a report to the Committee relative to the disciplinary, criminal and recovery actions taken, it being recorded that the Acting City Manager can only respond when the reports are available.

NOTED.

- 3. BUDGET STATEMENT REPORT FOR THE MONTH ENDED
31 OCTOBER 2021 (7/1/4)

(Page 124)

Upon consideration of the Budget Statement Report, the Democratic Alliance recalled that a Task Team has been established to mitigate and reduce the over-expenditure of overtime by Metro Police. They queried progress made in this regard. They were concerned about the anticipated over-expenditure of overtime in the Expanded Public Works Programme (EPWP), given the outstanding report in terms of verifying the EPWP beneficiaries and related matters. Also, submitting that there was slow progress in the implementation of catalytic projects, reference being made to the Durban Iconic Tower, Virginia Airport and the Durban Film City. It being mentioned that there was no political will to address the uncollected debts from Government Departments; Parastatals and Tansnat; and that there were continuous distribution losses related to water and electricity which result in revenue losses.

The African National Congress appreciated progress being made by the Task Team to curtail the overtime expenditure. It being mentioned that the process of beneficiary verification and standardization of the EPWP was in the process of being finalised and beneficiaries had already been incorporated into the persal system. It was also appreciated that the Municipality has made vast developments in catalytic projects that were under its control. That the Executive Committee will conduct inspection in- loco to verify progress made in this regard.

An average collection rate of 92% as at October 2021 was reported as being lower when compared to the same period in the previous year (95.65%). Also, that vigorous debt collection strategies had been implemented with the assistance and guidelines from National Treasury, and some Government Departments had already commenced

with making payments towards their historical debts. Assurance being given that a comprehensive report related to the challenges and/or proposals for water and electricity matters will be submitted to the Executive Committee.

Following an in-depth elaboration of the report during which clarity was provided in an effort respond to various issues raised by members,

COMMITTEE RECOMMENDS:

- 3.1 That the Budget Statement report for the month ended 2021-10-31, submitted by the Acting City Manager as per his report dated 2021-11-17, in compliance with Section 71 of the Municipal Finance Management Act 56 of 2003 and in terms of Government Notice 32141 dated 17 April 2009, relating to the “Local Government: Municipal Finance Management Act 2003, the Municipal Budget and Reporting Regulations”, be noted.
- 3.2 That in compliance with Section 32(2) of the Municipal Finance Management Act, Council notes the incurred Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) which amounts to R 39 849 000.00 (Thirty Nine Million Eight Hundred and Forty Nine Thousand Rand) for the month of October 2021 as detailed on page 34 in the report of the Acting City Manager dated 2021-11-17.
- 3.3 That Council refers the UIFW referred to in .2 above to the Municipal Public Accounts Committee (MPAC) for investigation into the recovery or write-off of the said expenditure in terms of Section 32(2)(b) of the Municipal Finance Management Act and request MPAC to report back to Council on the outcome of its investigations.

Speaking on the matter, the DA mentioned that the budget statement does not reflect an optimistic Municipal financial status. They mentioned that the Municipality had lost 51% of billable water which continue to impact municipal revenue. It being mentioned that the report revealed only two reasons for water loses, and with no plans being put forward by the Municipality to mitigate these loses. They also spoke of the overtime eexpenditure not being adequately reduced over the last two (02) years. In addition, they submitted that exorbitant funds were being directed to the Expanded Public Works Programme (EPWP) and the Zibambele Programme even though verification processes for these programmes had not been finalised.

Thereafter, the EFF expressed concerns regarding the Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) and mentioned that this had to be urgently addressed. They also queried the over-expenditure of overtime by Metro Police. In this regard, they proposed that recruitment of new personnel be expedited.

Meanwhile, the IFP noted the report and the measures being put in place to address challenges. However, they submitted that more effort was needed to curb the UIFWE and also for the MPAC to investigate all transgressions and to provide reports to enable Council to provide an effective oversight role. Reservations were expressed on the thirty two (32) days cash on hand and proposal being made that the Municipality needed to maintain its reserves. They also proposed that a war on water leaks programme needed to be resuscitated and for the Municipality to focus on unmetered houses as this would also contribute to an increase in Municipal revenue.

His Worship, the Mayor welcomed the report as presented. He mentioned that more funding had to be sourced for water infrastructure. It was noted that service delivery Units have limited budget and these needed be addressed.

He reiterated that an average collection rate of 92% was reported as being lower when compared to the same period in the previous year (95.65%). However, he reported revenue collection strategies had started to yield positive results, with R140 000 000.00 (One Hundred and Forty Million Rand) already recovered from Parastatals and Government Departments.

It was also clarified that Zibambele was a poverty alleviation programme and an extension of maintenance and repairs section under Roads and Storm Water Unit. That the conditions of employment for Zibambele Programme and the EPWP were in line with the prescribed guidelines from the Department of Public Works. Therefore, the Municipality has a responsibility to supports these programmes.

His Worship concluded by stating that there has been a reduction in irregular expenditure in the Municipality with plans to further reduce it this financial year. He mentioned that this was achieved by the implementation of an Unauthorised, Irregular, Fruitless and Wasteful (UIFW) Expenditure Reduction Strategy which was adopted by Council last year. With regards to the issue of overtime for Metro Police, he indicated that the Municipality was in a process of recruiting two hundred (200) Police Officers per annum which will assist in the further reduction of overtime expenditure.

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

4. BUDGET STATEMENT REPORT FOR THE MONTH ENDED
30 NOVEMBER 2021 (7/1/4)

(Page 299)

In noting the Budget Statement Report as at 30 November 2021, which provides high level overview of the Municipality's financial viability and sustainability;

COMMITTEE RECOMMENDS:

- 4.1 That the Budget Statement report for the month ended 2021-11-30, submitted by the Acting City Manager as per his report dated 2021-12-23, in compliance with Section 71 of the Municipal Finance Management Act 56 of 2003 and in terms of Government Notice 32141 dated 17 April 2009, relating to the "Local Government: Municipal Finance Management Act 2003, the Municipal Budget and Reporting Regulations", be noted.
- 4.2 That in compliance with Section 32(2) of the Municipal Finance Management Act, Council notes the incurred Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) which amounts to R 82 257 000.00 (Eighty Two Million Two Hundred and Fifty Seven Thousand Rand) for the month of November 2021 as detailed on page 36 in the report of the Acting City Manager dated 2021-12-23.

- 4.3 That Council refers the UIFW referred to in .2 above to Municipal Public Accounts Committee (MPAC) for investigation into the recovery or write-off of the said expenditure in terms of Section 32(2)(b) of the Municipal Finance Management Act and request MPAC to report back to Council on the outcome of its investigations.

Speaking on the matter, the Democratic Alliance submitted that the Municipality was currently not in a financially stable position. They made reference to the liquidity rate, that it was 30 (thirty) days cash on hand including grants as at the end of December 2021. Whilst they noted the collection challenges, mention was made that the huge historical debts from government departments, entities and parastatals be collected in order to increase Municipal revenue. They proposed that a cash flow statements from January 2022 till end of the financial year (30 June 2022), to indicate Municipal expectations in terms of income and expenditure, be submitted and discussed at the Support Committee level.

In noting the report, His Worship, the Mayor mentioned that less should be spent in order for the Municipality to increase its reserves. He added that the Municipality was financially stable, reference being made to the credit rating agencies which had awarded the Municipality a AAA+ status after an assessment of the Municipality's finances, transactions and investments. However, he mentioned that the Municipality has to improve on revenue collection, taking into cognisance that the income level for the general public including businesses have been negatively affected by different aspects including the civil unrest, which then affects their ability to make payment for municipal services.

His worship mentioned that the cash flow reports and other critical finance matters will be submitted and deliberated upon at the Finance Security & Emergency Services Committee. He advised interventions which include empowerment and strategic sessions for different Units would be implemented to address challenges related to operations and expenditure patterns. That this would enable Units to effectively manage and control their budgets.

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

5. RATIFICATION OF RULE OF ORDER 28 APPROVAL: UPDATE TO THE HOUSEHOLD COUNT AND INDIGENT HOUSEHOLD COUNT (11/2/1 & 22/7/1/1/5)

(Page 473)

COMMITTEE RECOMMENDS:

- 5.1 That in view of the need to obtain approval so that the updated figures can be used during the mid-term amendments, the Acting City Manager, in consultation with His Worship the Mayor, to grant authority, in terms of the Council's Rule of Order 28 (1) (b) By-law, the following recommendations relative to Update to the Household Count and Indigent Household Count, be noted:
- 5.1.1 That the recommendations of the following be approved for the updating of the household count and indigent household count figures which are utilized for planning and reporting within the Municipality:

- 5.1.1.2 For the household count for the eThekweni Municipality to be updated to be 1 207 736 (one million two hundred and seven thousand seven hundred and thirty six) with effect from 01 January 2022.
- 5.1.1.3 To continue using this total household count figure, or any Statistics SA updated figure, until a new methodology is developed to determine the total household count and submitted to Council for approval.
- 5.1.1.4 For the indigent household count for the eThekweni Municipality to be updated to be 778 742 (seven hundred and seven eight thousand seven hundred and forty two) indigent household effect from 01 January 2022.
- 5.1.1.5 To continue using this indigent household count methodology until a new methodology is developed to determine the indigent household count and submitted to Council for approval.
- 5.1.1.6 For any updates to the household or indigent household count, based on the current methodologies, to be approved by the City Manager and communicated by way of a City Manager's Circular.
- 5.1.1.7 For these figures to be uniformly used as the household count and indigent household count by all Units in the Municipality.
- 5.1.1.8 For the revised household count and indigent household count to be incorporated into the Integrated Development Plan (IDP) and the Service Delivery Budget Implementation Plan (SDBIP) during the mid-term amendments for the 2021/2022 financial years, in line with the relevant processes.
- 5.1.1.9 That, subject to the approval of the above and in terms of the requirement of Rule of Order 28, this report will be submitted to the next ordinary meeting of the Human Settlements and Infrastructure Committee for onward submission to Council.

In noting the report, some members were dissatisfied with the indigent count calculation methodology. It being mentioned that not all families living in properties below and above the value of R250 000.00 (Two Hundred and Fifty Thousand Rand) fall within the indigent category. It being proposed that the methodology utilized for assessment be reviewed, so that, it would be primarily based on financial status as opposed to property value.

Meanwhile, other members welcomed the intervention and Councillors being encouraged to sensitize qualifying community members to come forward and register on the indigent register. It being mentioned that the property values had been increased to R500 000.00 (Five Hundred Thousand Rand). Further, that the outstanding debts for qualifying indigent households will also be written-off.

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

6. APPLICATION IN TERMS OF THE PROVISIONS OF THE ETHEKWINI MUNICIPALITY PLANNING AND LAND USE MANAGEMENT BY-LAW 2016 (MUNICIPAL NOTICE NO. 114 OF 2017) FOR THE AMENDMENT OF THE ETHEKWINI MUNICIPAL LAND USE SCHEME (CENTRAL SUB-SCHEME) REGULATIONS (SECTION 7) BY THE INTRODUCTION OF A NEW ZONE (GENERAL RESIDENTIAL 6) (21/7/3)

(Page 479)

Authority is being sought to amend the eThekweni Municipality Land Use Scheme: (Central Sub-Scheme) Regulations (Section 7) by the introduction of a New Zone General Residential 6. This is to facilitate the development of additional affordable residential units in the form of 3-storey blocks.

During deliberations, there was broad agreement with the City, however, uncertainties were raised with regards to the capacity of current infrastructure; including water and electricity, being overstrained by the proposed development. In response, confirmation was given that prior to the building plans being approved, the recommendations are circulated to different Units including Water and Sanitation, Human Settlements; Development Planning etc. to provide inputs.

Thereafter, the Democratic Alliance abstained on the matter and with the majority being in support;

COMMITTEE RECOMMENDS:

- 6.1 That in terms of Section 26(1)(b) of the eThekweni Municipality Planning and Land Use Management By-Law 2016 (Municipal Notice 114 of 2017) the application for the amendment of the eThekweni Municipal Land Use Scheme (Central Sub-scheme) Section 7 (Development Facilitation Tables): by the introduction of a new zone (General Residential 6) into the eThekweni Municipality Land Use Scheme (Central Sub-scheme) with an intention to rezone the Remainder of Erf 145 Duiker Fontein from Medium Density Housing to General Residential 6 be adopted for the following reasons:
- 6.1.1 The proposed scheme amendment by the introduction of the General Residential 6 zone will lay the foundation for the optimisation of an existing resource (land) and infrastructure which is congruent with the Spatial Planning and Land Use Management Act principles of Efficiency, Spatial Sustainability and Good Administration.
- 6.1.2 The proposed introduction of the General Residential 6 zone is in line with the strategic intentions of the City as espoused through the SDF 2020/2021 and it is also in line with broad principles of densification around existing nodes as outlined in the eThekweni City Density Strategy, 2013.

The eThekweni Municipality Land Use Scheme (Central Sub-scheme), Section 7 (Development Facilitation Tables): the introduction of a new zone (General Residential 6) into the Central Sub-scheme of the eThekweni Municipality's Land Use Scheme as per the following development facilitation table:

		ZONE: GENERAL RESIDENTIAL 6				
SCHEME INTENTION: To provide, preserve, use land or buildings for all types of residential accommodation at the higher density housing market with a range of ancillary uses which service the day to day needs of a residential community.						
MAP COLOUR REFERENCE: TBC						
PRIMARY		SPECIAL CONSENT			PRECLUDED	
<ul style="list-style-type: none">Conservation areaDwelling HouseFlatLaundryMultiple Unit Development		<ul style="list-style-type: none">Boarding Housetelecommunications infrastructureCemetery/crematoriumCrècheEducational EstablishmentGarden NurseryGovernment/MunicipalHealth & Beauty ClinicHealth StudioHotelInstitutionOfficePlace of Public WorshipPrivate Open SpaceSpecial BuildingVeterinary Clinic			<ul style="list-style-type: none">All other uses	
ADDITIONAL CONTROLS						
DEVELOPMENT PARAMETERS						
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMU M ERF SIZE	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
BUILDING	SIDE SPACE REAR SPACE					
7.5	3	Not applicable	1800m ²	4	40%	1.00

Some Councillors were not in support of the recommendations of the Executive Committee, the matter was put to the vote. With 201 Councillors present, 147 Councillors (ANC - 85, EFF - 24, IFP -15; ASA - 04, ABC - 02, ACC – 02; ACDP - 02, AIC -01, DLC - 01, ADEC – 01; APF - 01, ATM - 01, AL JAMA-AH - 01, JEP - 00, KZNI - 01, MF - 00, MOSA - 00, NFP – 01; PFP - 01, PRM – 01, TA- 01; UIM – 01 and VF Plus - 01) voted in favour and 54 DA Councillors abstained on the matter.

Subsequently, the above recommendations of the Executive Committee, were by the majority vote, **ADOPTED**.

7. **CORRECTION OF WARD NUMBERS WHERE REPRIORITIZED BUSINESS SUPPORT MARKETS TOURISM AND AGRIBUSINESS CAPITAL PROJECTS ARE LOCATED (7/1/2/1 & 20/1/7/4)**

(Page 484)

Authority is sought to correct ward numbers where approved capital projects are located. Numbers were captured incorrectly in the MSCOA budget descriptions. This correction will align ward numbers with finance descriptions and procedures.

Accordingly;

COMMITTEE RECOMMENDS:

That Council consider and approve the correction of ward numbers of the reprioritized projects in order to align with finances descriptions and procedures and that there will be no financial implications:

Project Name	Correct Ward Number
1. Cottonlands Poultry Hub	60 instead of 66
2. Bakery Container Project Community Co-ops Containers	
- Cottonlands Bakery	60 instead of 66
- Lamontville Bakery	74
- Umlazi Bakery	81
- KwaDabeka Bakery	20
3. Blue Lagoon Container Park	27 instead of 28

ADOPTED.

8. **REMOVAL OF RESTRICTIVE CONDITION OF TITLE OF ERF 12424 DURBAN (21/7/4)**

(Page 486)

Approval is being sought to remove restrictive of site zoned for cultural and entertainment, currently used as Convention Centre and Ice Rink. The property was sold to Olive Marketing through public tender registered in 2009. At the time, the Municipality had an existing 30-year agreement with Skating Enterprises, expiring 30 December 2016. Olive Marketing then had to enter into an agreement with the Skating Enterprises for the remainder of the lease period.

The lease had restrictive clauses revolving around the use of the Ice Rink. These have since been removed by the Land Use Management Advisory Committee. However, condition C15 was not removed. It reads: *“its recorded that it is the intention of the parties that an Olympic size ice rink shall be maintained on the property in perpetuity for the benefit of the sport of Ice Skating irrespective of the change in ownership”*

Council approval is required to effect the approval as per application by Olive Marketing. It should be noted that Durban Ice Rink is no longer fully utilized but Galleria has gained popularity. Consequently, the Ice Rink Board resolved that it

is no longer financially viable to operate the Durban Ice Rink. Council approval will enable Land Use Management to effect restrictive removal.

With the Committee being in support;

COMMITTEE RECOMMENDS:

- 8.1 That authority be granted to support the proposed removal of restrictive conditions C 1.5 in Deed of Transfer number 34297/09, that the formal process for the removal will be carried out by the Land Use Management Unit of the eThekweni Municipality in accordance with Section 28 (2)(g) of the eThekweni Municipality Planning and Land Use Management By-law, 2016.
- 8.2 That a formal process for the removal be carried out by the Land Use Management Unit of the eThekweni Municipality in accordance with Section 28 (2)(g) of the eThekweni Municipality Planning and Land Use Management By-law, 2016.
- 8.3 That authority be granted for the Head: Real Estate to sign all the documents necessary to give effect to this transaction in terms of any applicable legislation and that it shall be further subject to such further conditions and the Head: Real Estate considers necessary to protect Council interest.

ADOPTED.

- 9. REQUEST FOR AUTHORITY TO INITIATE A PROCESS FOR THE APPOINTMENT OF DIRECTORS, COMPANY SECRETARY AND AUDIT COMPANY FOR THE MUNICIPAL ENTITY TO OPERATE THE DURBAN TRANSPORT SERVICES. (2/2/3 & 26/3/1/2)

(Page 492)

During consideration of the matter, the DA submitted that a decision had been taken by Council in 2018 to establish a Municipal Entity to operate Durban Transport Services internally. That during the year 2020, a Road Map to achieve this was developed, and presented to Council for noting and later, approval. They expressed reservations over the processes unfolding to establish Municipal Entity to operate the service. They were of the view that the set up being created will enable the current operator to continue to work concurrently with the Municipal Entity. Concerns were also expressed that the matter has been long outstanding and they queried the delays in this regard.

Clarity was given that processes had to be followed in relation to the establishment of the Municipal Entity. Reference being made to the process of registration of a Municipal Entity, wherein the Municipality had obtained legal opinion which specified that prior to registration of an Entity, the appointment of Directors, Company Secretary and Audit Company for the Entity be effected; in line with Section 93 (e) of the Municipal Systems Act, No 32 of 2000. Clarity was also given that overall management of Durban Transport would fall within the jurisdiction of the Municipality, with it taking 60% shares in the Municipal Entity and that an experienced operator will assist with capacitation of the Municipal Entity.

In view of the foregoing, the DA (03) dissented on the matter; EFF (01) and IFP (01) abstained on the recommendations.

The ABC (01) and ANC (04) were in support of the recommendations and with the casting vote of the Chairperson;

COMMITTEE RECOMMENDS:

- 9.1 That Council notes the legal requirement that the appointment of Directors, Company Secretary and Audit Company be made first before the registration on the Municipal Entity for the Durban Transport Services is undertaken.
- 9.2 That Council approves the following process to comply with the legal requirement:
 - 9.2.1 The Acting City Manager to place advertisements in public and electronic media inviting nominations and/or applications for Directors and Company Secretary,
 - 9.2.2 Once nominations / applications are received, the list of candidates be presented to Council for approval or guidance to be sought for the selection process to be followed in making the selection of Directors and Company Secretary,
 - 9.2.3 On conclusion of the process for selection of Directors and Company Secretary the recommended individuals be submitted to Council for approval,
 - 9.2.4 The City's Supply Chain Management Policy be utilized for the appointment of the Audit Company, and
 - 9.2.5 The rest of activities for the registration of the Municipal Entity to be completed with the new Board of Directors.

Financial Implications:

The only cost implications at this stage relate to the cost of placing advertisement in the public media.

Speaking on the matter, the Democratic Alliance mentioned that the current bus operator does not achieve the fundamental aim of providing affordable; safe; and reliable transport services to commuters. As a result, Council had taken a decision in 2018 to establish a Municipal Entity to operate Durban Transport Services internally. They submitted that the proposed approach does not align with what Council had embarked upon and dissented on the matter and reiterated that the set up being created will enable the current operator to continue to work concurrently with the Municipal Entity.

Meanwhile, the IFP supported the recommendations and mentioned that a detailed feasibility study and/or assessment was conducted on the bus operation services. They proposed that a comprehensive report inclusive of background on the matter, executive summary etc. be submitted and deliberated upon at the Human Settlements and Infrastructure Committee so that new Councillors are given an opportunity to deliberate further on the matter.

The DLC also supported the recommendations and advised that finalisation of this matter was long overdue and that the process should not be procrastinated any further. They mentioned that the Municipality had bailed out the bus operator on numerous occasions, as a result this had negatively impacted the ratepayers. They emphasised that the establishment of the Municipal Entity will results in the bus operation services being managed and operated effectively.

The EFF abstained on the matter and expressed reservations about the contractual obligations and legal battle between the current bus operator and the Municipality. They were uncertain that the proposed approach will fulfil their political mandate of building state capacity.

Whereas the ANC advised that the recommendations sought to further implement the 2018 Council resolution and in line with the Roadmap approved in 2020. They also advised that Council members had to be familiar with the context of the Durban Transport Services. They mentioned that this was not the first Municipal Entity to be created by the Municipality, in this regard, reference was made to Ushaka Marine World and Durban ICC. It was emphasized that both these entities were thriving with Council playing an effective oversight role as well as the positive audit outcomes from the Auditor General. It was reported that following the adoption of the process to initiate the appointment of Office Bearers for the Municipal Entity, the names of candidates will be submitted to Council for approval and the new Board will commence with their responsibilities going forward.

Thereafter, as some Councillors were not in support of the above recommendations of the Executive Committee, the matter was put to the vote. With 197 Councillors present, 117 Councillors (ANC - 85, IFP -15; ASA - 04, ABC - 00, ACC – 02; ACDP - 02, AIC -00, DLC - 01, ADEC – 01; APF - 01, ATM - 01, AL JAMA-AH - 01, JEP - 00, KZNI - 00, MF - 00, MOSA - 00, NFP – 01; PFP - 01, PRM – 01 and TA- 01;) voted in favour and 54 DA Councillors voted against and 26 Councillors (EFF – 24; UIM – 01 and VF Plus – 01) abstained on the matter.

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

10. REPRIORITIZATION OF THE ENGINEERING UNIT BUDGET FOR 2021/2022
FINANCIAL YEAR (7/1/2/2)

(Page 503)

During deliberations, the DA was dismayed with the Engineering budget cuts applied in September 2021 which have consequently impacted active projects with contractual obligations. Concerns were expressed on line expenditure item relative to 7200 (seven thousand and two hundred) Zibambebe employees, reference being made to the need for physical verification of these employees as well as the differences and / or similarities between Zibambebe Programme and Expanded Public Works Programme (EPWP).

Explanation was given that the Municipality was still operating under financial constraints, in this regard some of the budget items could not be funded. Clarity was also given that Zibambebe was also a poverty alleviation programme and an extension of maintenance and repairs section under Roads and Storm Water Unit. That the conditions of employment for Zibambebe Programme are in line with the prescribed guidelines from the Department of Public Works.

Subsequently, three (03) DA voted against the recommendations; one (01) EFF abstained on the matter and with (04) ANC; one (01) ABC Member and one (01) IFP being in support of the recommendations;

COMMITTEE RECOMMENDS:

- 10.1 That Council approves transfer of funds in the amount of R172 668 197, 39 (One Hundred and Seventy Two Million Six Hundred and Sixty Eight Thousand One Hundred and Ninety Seven Rand Thirty Nine Cents) to adjust the Capital and Operational Budget for Engineering Unit to cater for the 2021/2022 financial year project obligations due to various reasons indicated and be considered for re-imbursement to the Engineering Unit in the next budget adjustment, subject to funding availability at the time, to allow the continuance of originally planned projects and works in the current financial year, which are detailed in Annexure A and B in the report by the Head: Engineering dated 2021-11-25.
- 10.2 That authority be granted for the Deputy City Manager: Finance to include in his Adjustment Budget report, the transfer of funds from the projects where savings have been identified to project where additional budget is required as per Annexure A and B in the report of the Head: Engineering dated 2021-11-25.

Commenting on the matter, the IFP supported approval of reprioritization of the Engineering Unit budget and emphasised that proper planning was critical to avoid such budget adjustment in future. They mentioned that budget cuts often affect important poverty alleviation programmes and reference being made to the Zibambe project in this instance.

Thereafter, the EFF opposed the budget reprioritisation. They mentioned that lack of proper planning and mismanagement was a custom. They also requested a report on the similarities and differences between the Expanded Public Works Programme and the Zibambe Programme.

Meanwhile, the ANC was in support of the recommendations and advised that Zibambe Programme was an old poverty alleviation programme which begun in 2011. That the programme was earmarked for maintenance and cleaning of municipal roads in urban, rural and township areas. Also, that women were being prioritized as beneficiaries of the programme as most households were led by women and are thereby responsible for providing basic essential households needs.

As as some Councillors were not in support of the above recommendations of the Executive Committee, the matter was put to the vote. With 200 Councillors present, 120 Councillors (ANC - 85, IFP -15; ASA - 04, ABC - 02, ACC – 02; ACDP - 02, AIC -00, DLC - 01, ADEC – 01; APF - 01, ATM - 01, AL JAMA-AH - 01, JEP - 00, KZNI - 01, MF - 00, MOSA - 00, NFP – 01; PFP - 01, PRM – 01 and TA- 01;) voted in favour and 55 Councillors (DA – 54 and VF Plus – 01) voted against and 25 Councillors (EFF – 24 and UIM – 01) abstained on the matter.

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

11. APPROVAL FOR THE TRANSFER OF FUNDS TO PAY FOR ASSESSMENT AND CERTIFICATION OF THE REFURBISHMENT OF COMMUNAL ABLUTION BLOCKS DONE UNDER PROJECT: Y 6525: PROVISION OF WATER AND SANITATION SERVICES TO HUMAN SETTLEMENTS AND SCHOOLS WITHIN ETHEKWINI REGION, REPORT NO: WS 2021/192 (23/2/2)

(Page 515)

During consideration of the matter, confirmation was given that the Municipality will effect payment for work related to the Provision of Water and Sanitation Services to Human Settlements and Schools within eThekweni Region; on the basis that it is certified by the design consultants and verified by Auditors.

Thereafter; the Democratic Alliance dissented on the matter and with the majority being in support;

COMMITTEE RECOMMENDS:

That authority be granted to transfer funds from the project management services vote to fund the outstanding assessment and verification of the refurbishment work done on the communal ablution blocks under contract Y6525: provision of water and sanitation services to human settlements and schools within eThekweni Municipality as follows:

Funding transferred from:			Funding transferred to:		
Vote No:	Project Description	Amount	Vote No.	Project Description	Amount
63050.10845	Sewerage Services	R6,9 000 000.00	64060.10970	Project Management	R6,9 000 000.00

Financial Implications:

The estimated professional fees required for the certification of the work done by Mandlethu projects is R1,7 Million while the estimated professional fees for work done under Kulu Civils is R5,6 Million. These amounts exclude the costs that will be incurred by conducting a verification process through the auditors after the certification of the work by the consultants. Current budget available is R400 000.00 out of a total required budget of R7,3 Million as reflected in the table below:

Item No.	% Outstanding Payment	Main Contractor	Work Assessment/Certification/Verification			Amount Claimed	Estimated Budget Required (Professional Fees)	Budget Available	Budget Shortfall
			Check by Main Contractor	Certified by Consultants	Verified by the Auditor				
1.	100%	Mandlethu Projects	Yes	No	No	R72 499 712.00 excl vat	R1, 7 Million excl VAT	R400 000.00	R6,9 Million
2.	100%	Kulu Civils	Yes	No	No	R155 390 619 excl VAT	R5, 6 Million excl VAT		
Total estimated amount required for certification of the work done by Mandlethu and Kulu Civils excluding verification fees by auditor amount to:							R 7, 3 Million excl VAT		

REFERENCE BACK

In terms of Rule of Order Bylaw 20(1)(c), Councillor MS Nkosi, seconded by Councillor NL Graham, moved as a procedural motion that the above recommendations of the Executive Committee be referred back to the Executive Committee to allow members to make further comprehensive input as they were of the view that the report contained gaps which needed to be addressed.

CARRIED

Some Councillors were not in support of the reference back. Accordingly, the matter was put to the vote. With 198 Councillors present, 189 Councillors (ANC - 85, DA – 54; EFF – 24; IFP -15; ASA - 04, ABC - 00, ACC – 02; ACDP - 02, AIC -00, DLC - 01, JEP - 00, MF – 00; MOSA – 00, UIM -01 and VF Plus -01) voted in favour and 4 Councillors (ADEC -01; APF – 01, NFP -01 and TA -01) voted against and 5 Councillors (ATM - 01, AL JAMA-AH - 01, KZNI – 01 ; PFP -01 and PRM – 01) abstained on the matter.

The above-mentioned motion to refer back was, by the majority vote, **CARRIED**.

Reverting back to the substantive matter, it was

RESOLVED:

That the recommendations in respect of the item entitled Approval for the Transfer of Funds to pay for Assessment and Certification of the Refurbishment of Communal Ablution Blocks done Under Project: Y 6525: Provision of Water and Sanitation Services to Human Settlements and Schools within eThekweni Region, be REFERRED BACK to the Executive Committee for further deliberations.

12. **REQUEST FOR FUNDS FOR THE PROVISION OF CLOTHING ALLOWANCE FOR VIP PROTECTORS (8/1/13/1)**

(Page 519)

Upon deliberations, the DA dissented on the matter and mentioned that the Municipality should direct funds to other important budget items as Council can operate without the clothing allowance. Further, that monitoring of the allowance in terms of serving its intended purpose was questionable.

On the other hand, some members were in support of the matter and submitted that the costs are consistent with the VIP Protectors clothing allowance in other Municipalities. That it was in line with best practice in the provision of this service. Further, that it will be made compulsory for VIP Protectors to be strictly formal when they perform their duties.

Thereafter, the three (03) DA Members voted against the recommendations and with the majority of Members being in support;

COMMITTEE RECOMMENDS:

- 12.1 That, in order to regularize and ensure equity and fairness to all VIP Protectors regarding the payment of a clothing allowance, an additional funding for the provision of a Clothing Allowance of thirty one (31) VIP Protectors in the Security Management Unit, Safety & Security Cluster who were not included in the initial report approved by the Executive Committee in March 2020, be approved; for retrospective implementation with effect from 01 July 2021 so that they could be properly attired when performing their functions.
- 12.2 That authority be granted for the Head: Security Management to provide Clothing Allowance to incumbents filling consequential vacancies in the VIP Protection Branch; to provide Clothing Allowance to all new recruitments supplementing VIP protectors, upon finalization of the restructuring process, subject to obtaining necessary funding and to provide Clothing Allowance to V.I.P Protectors who have been seconded to other Branches, for operational reasons, and who have been subsequently recalled to the VIP Protection Branch; subject to the obtaining the necessary funding.
- 12.3 That authority be granted for the Deputy City Manager: Finance to make provision for the escalation of allowances in line with the revision of yearly salaries.

Financial Implications:

1. The cost implications of providing a Clothing Allowance to thirty one (31) VIP Protectors will be R474 300-00 per annum for the 2021/2022 financial year (see Table 1 below). This funding will be sourced via adjustments budgets and allocated to B.U 24425.13260. The monthly allowance will be inclusive of any revision of salaries, effective from 01 July 2021.
2. Accordingly, application of any additional funding requirements will be submitted to Treasury Cluster during the upcoming municipality's annual budget cycles necessary to provide for the VIP protectors supplementing the Branch upon finalisation of both restructuring process and the recalling secondments.

PROPOSED CLOTHING ALLOWANCES FOR FUNDS REQUIRED FOR THE 2021/2022 FINANCIAL YEAR

TABLE 1

DESIGNATION	NUMBER	Proposed Monthly Allowance	Number of months	Funds required
VIP PROTECTOR	31	R1 275.00 + Revision of salaries 2021/2022	12	R 474 300.00 + Revision of salaries 2021/2022
TOTAL	31	R 39 525.00 + Revision of salaries 2021/2022	12	

Some members were against the approval of the recommendations. They felt that other matters could be prioritized instead of funding being directed to clothing allowances. They requested Council to re-consider the matter and prioritize community needs.

Meanwhile, majority of members emphasised the importance of adhering to employee's rights as enshrined in their conditions of employment. It being stated that these conditions of services were deliberated at the National Bargaining Council level where both Employers and Union Representative reach agreements which benefit both parties. Mentioned was made that Council could not be in contradiction of the approved policies.

With consensus not being reached on the matter, the matter was put to the vote. With 197 Councillors present, 110 Councillors (ANC - 85, IFP -15; ABC - 00, AIC -00, DLC - 01, ADEC -01; APF – 01, ATM - 01, AL JAMA-AH - 00, JEP - 00, KZNI – 01 ; NFP -01; PFP -01; PRM – 01, TA -01; MF – 00; MOSA – 00 and VF Plus -01) voted in favour and 84 Councillors (DA – 54; EFF – 24; ASA – 04 and ACDP - 02) voted against and 3 Councillors (ACC – 02 and UIM-01) abstained on the matter.

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

13. MID-YEAR BUDGET AND PERFORMANCE ASSESSMENT REPORT:
31 DECEMBER 2021 (7/1/4)

(Page 525)

The Committee noted the Mid-Year Budget and Performance Assessment Report for December 2021. Views being expressed that the Municipality needs to prioritize common issues which affects people of eThekweni. Reference being made to; amongst others, water, electricity, billing system and housing as being critical in the City.

Information was given that the Executive Committee will undertake to invest sufficient time to unpack water and electricity matters including the Audit Committee Report as at 30 June 2021; looking as well to the responses provided by Management in this regard, during the upcoming Mayoral Lekgotla in February 2022.

Therefore;

COMMITTEE RECOMMENDS:

- 13.1 That Council notes the Budget Statement Report for the month ended 2021-12-31, submitted by the Acting City Manager as per his report dated 2022-01-14, in compliance with Section 28, Section 71, Section 52(d), 54 (d) and Section 72 of the Municipal Finance Management Act No. 56 of 2003 read together with Regulations 28 to 34 of the Municipal Budget and Reporting Regulations, in terms of Government Notice 32141 dated 17 April 2009, relating to the “Local Government: Municipal Finance Management Act 2003.
- 13.2 That in compliance with Section 32(2) of the Municipal Finance Management Act, Council notes the Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) incurred for the month of December 2021 as detailed on page 43 in the report of the Acting City Manager dated 2022-01-14.
- 13.3 That Council refers the UIFW referred to in .2 above to Municipal Public Accounts Committee (MPAC) for investigation into the recovery or write-off of the said expenditure in terms of Section 32(2)(b) of the Municipal Finance Management Act and request MPAC to report back to Council on the outcome of its investigations.

Speaking on the Budget Statements for December 2021, the Democratic Alliance reiterated that a need exists for the Finance, Security and Emergency Services Committee to scrutinise the cash flow statement from January 2022 till the end of the financial year (June 2022).

Meanwhile, His Worship the Mayor mentioned that progress has been made by the Municipality with regards to implementation of new projects. He made reference to the Human Capital Excellence Centres which have been established at different Wards within the City. That these Centres were aimed at assisting youth by having access to job application sites, thereby changing the material conditions of communities. He added that during February budget adjustment, funding will be prioritized for water, sanitation and refuse collection and also refurbishment of access roads.

Thereafter, the above recommendations of the Executive Committee on item 13.1 – 13.2 were; **NOTED**, and recommendation on item 13.3 was unanimously; **ADOPTED**.

SECOND REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2022-01-25)

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

1. MID-TERM AMENDMENTS TO THE SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN: 2021/2022 FINANCIAL YEAR (2/10/1/1/9)

(Page 01)

Section 3.4(b) of the Local Government: Municipal Planning and Performance Management Regulations of 2001 makes provision for the publication of proposed amendments to the Integrated Development Plan (IDP) for a period of 21 days. This is aimed at providing members of the public with the opportunity to make representation with regard to the amendments being proposed.

Certain amendments have been made by the Plan Owners, details of which are contained in the Service Delivery and Budget Implementation Plan circulated separately under the Report of the Acting City Manager dated 2022-01-17. These changes subsequently translate into the IDP amendments.

It should be noted that this submission seeks authority for public consultation to be conducted on the proposed changes to the IDP as a result of the proposed SDBIP amendments.

The Democratic Alliance (03) abstained on this matter at this stage as they were of the view that unmet targets are just being adjusted thus resulting in the actual service delivery results not being achieved.

With the other Members being in support,

COMMITTEE RECOMMENDS:

That Council notes proposed mid-term amendments to the Service Delivery and Budget Implementation Plan which will subsequently result in amendments to the Integrated Development Plan (IDP), and also notes the public participation process linked to the amendment of the IDP, to allow a period of twenty one (21) days to enable public to make representations with regard to the proposed amendments, in line with the provisions of Section 3.4(b) of the Local Government: Municipal Planning and Performance Management Regulations, 2001.

NOTED.

2. SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN QUARTERLY REPORTING AS AT 31 DECEMBER 2021 (2/10/1/1/9)

(Page 22 & 111)

As per the statutory requirement the SDBIP Report for the quarter ended 31 December 2021 is submitted to Council for noting. The overall performance of the SDBIP as at 31 December 2021 is 75.94%. Cognisance is taken that some of the targets for the quarter have not been met and Management is working on interventions to address non-achievement.

The intention is to achieve the year-end target whilst also ensuring maximum service delivery. Management will also work on addressing challenges resulting in non-achievement, including budget constraints; meter reading challenges; labour disruptions; delays in procurement process; ageing infrastructure, amongst other things.

COMMITTEE RECOMMENDS:

That Council notes the Service Delivery and Budget Implementation Plan Report for Quarter 2 of the 2021/2022 financial year, submitted in line with Section 52 (d) of the Municipal Finance Management Act (MFMA) No. 56 of 2003 and MFMA Circular No 13, which Report reflects an overall unaudited achievement of 75.94% for eThekweni Municipality; and the Municipal Entities, Inkosi Albert Luthuli International Convention Centre recording 100.00% achievement, with Ushaka Marine World recording 69.23%, and the breakdown for eThekweni Municipality is detailed in the table below:

Plan Number	Plan Name	Achievement Rate (%)
Plan 1	Develop and Sustain our Spatial, Natural and Built Environment	100.00%
Plan 2	Developing a Prosperous, Diverse Economy and Employment Creation	94.12%
Plan 3A	Creating a Quality Living Environment	83.33%
Plan 3B	Creating a Quality Living Environment	47.62%
Plan 3C	Creating a Quality Living Environment	N/A
Plan 4A	Fostering a Socially Equitable Environment	60.00%

Plan Number	Plan Name	Achievement Rate (%)
Plan 4B	Fostering a Socially Equitable Environment	80.00%
Plan 5	Supporting Design, Human Capital Development and Management	90.91%
Plan 6A	A vibrant and creative city - the foundation for sustainability and social cohesion	83.33%
Plan 6B	Stadia Facilities Unit	50.00%
Plan 6C	Agro-Ecology	100.00%
Plan 7A	Good Governance and Responsive Local Government	72.73%
Plan 7B	Good Governance and Responsive Local Government	75.00%
Plan 7C	Good Governance and Responsive Local Government	100.00%
Plan 8	Financially Accountable and Sustainable City	50.00%
Overall Achievement		75.94%

Plan Number	Plan Name	Achievement Rate (%)
Plan 21	ICC	100.00%
Plan 22	Ushaka	69.23%

NOTED.

3. REMAINING PROGRAMME AND PROJECT PREPARATION SUPPORT GRANT BUDGET TRANSFER TO WASTEWATER PUMP STATIONS (7/4/2 & 23/1/11/2/1/2)

(Page 102)

EThekweni Municipality receives Programme and Projects Preparation Support Grant (PPPSG) to develop a pipeline of investment ready capital programmes and programmes. The PPPSG in the amount of R49 949 000.00 (Forty Nine Million Nine Hundred and Forty Nine Thousand Rand) has been received in the 2020-21 financial year. Arising from this grant, an amount of R40 349 190.00 (Forty Million Three Hundred and Forty Nine Thousand One Hundred and Ninety Rand) has been allocated to projects within the eThekweni Municipality. This therefore results in a remaining balance of R9 599 810.00 (Nine Million Five Hundred and Ninety Thousand Eight Hundred and Ten Rand) still to be allocated.

The eThekweni Water & Sanitation has applied for the remaining grant to use the funds to perform a detailed condition assessment on approximately one hundred and twenty (120) most critical wastewater pump stations that pose the greatest risk to eThekweni Municipality.

Accordingly, authority is sought to transfer the remaining PPPSG to the Water and Sanitation Unit to upgrade the Wastewater Treatment Works.

COMMITTEE RECOMMENDS:

That Council approves the transfer of the remaining Programme & Project Preparation Support Grant (PPPSG) in the amount of R9 599 810.00 (Nine Million Five Hundred and Ninety Nine Thousand Eight Hundred and Ten Rand) to the Water and Sanitation Unit for the purpose of pre-implementation packaging of a work programme to address the conditions of the Wastewater Treatment Works.

ADOPTED.

4. REQUEST FOR APPROVAL OF RULES REGULATING ESTABLISHMENT AND OPERATION OF WARD COMMITTEES FOR 2021-2026 TERM OF OFFICE (3/6/2)

(Page 119)

The Executive Committee received draft Rules Regulating the Establishment and Operation of Ward Committees for the 2021-2026 Council Term of Office. The eThekweni Municipality subscribes to a collective executive system combined with a ward participatory system. Hence, there is a legal requirement to establish Ward Committees within one hundred and twenty (120) days after the election of the Municipal Council.

In preparation to establish Ward Committees, Council approved the commencement of the public participation process to enable stakeholders to comment on the Rules Regulating Establishment and Operation of Ward Committees. The public participation process has been concluded and comments received from a member of the community can be summarised as follows:

- Apparently Ward Committees are not maximally utilised given the number of service delivery protests
- Ward Committees are entangled in politics and thus challenges encountered in the event a Ward Councillor and Members hail from different Political Parties
- Ward Committees are normally not properly constituted in terms of capacity; race; age etc.
- Lack of understanding by Ward Committee Members of the Portfolios they head and thus self-enrichment when receiving a stipend but not coupled with necessary productivity outcomes.

It should be noted that the Rules under discussion incorporate the aspects raised above, and the issue of enforcement will then have to be managed.

During discussion at the Executive Committee, the Democratic Alliance emphasised the importance of enforcing compliance in relation to establishment and functioning of Ward Committees. It was reiterated that Ward Committees become a political terrain and that there is no fair representation of interests groups available in the Wards. The issue of compliance with the Covid-19 protocols during the election process was also questioned.

In response, the Speaker confirmed that compliance will be enforced and that the Rules are clear with regard to terms and conditions surrounding the establishment and operation of Ward Committees. He also confirmed that a dedicated Task Team will be established to oversee logistical arrangements pertaining to the Ward Committee

elections. Therefore, issues pertaining to the Covid-19 protocols will be managed accordingly for the safety of all stakeholders involved.

Accordingly,

COMMITTEE RECOMMENDS:

- 4.1 That Council notes the public participation consultation process that was undertaken to give an opportunity to the eThekweni Municipal residents to comment on the draft Rules Regulating the Establishment and Operation of 2021 -2026 Ward Committees.
- 4.2 That the draft Rules Regulating the Establishment and Operation of the 2021 -2026 Ward Committees, as contained in the Report by the Acting City Manager dated 2022-01-22, be approved.
- 4.3 That Council notes that subject to the approval of .2 above, a workshop will be scheduled in February 2022 to empower Councillors on the content of the Rules Regulating the Establishment and Operation of Ward Committees and the election process to be followed.

Commenting on the matter, some Councillors submitted that Ward Committees formed a critical component and pillar of Local Government. It was mentioned that Ward Committees were in the centre of service delivery and assist in the achievement of Municipal objectives. It was proposed that their stipends be re-considered. Mention being made that the standard of living conditions had changed over the years as well as the escalation of costs.

With 198 Councillors present, 142 Councillors (ANC - 85, EFF -24; IFP -15; ABC - 00, ASA – 04; ACC – 02; ACDP – 02; AIC -00, DLC - 01, ADEC -01; APF – 01, ATM - 01, AL JAMA-AH - 01, JEP - 00, KZNI – 01 ; NFP -01; PFP -01; PRM – 01 and TA -01) voted in favour and 56 Councillors (DA – 54; UIM -01 and VF Plus -0-) abstained on the matter.

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

(At this stage of the proceedings, time being 15h19, the EFF requested five (05) minutes for caucus and it was granted by the Speaker. The meeting then resumed at 15h25.)

5. **REQUEST FOR APPROVAL OF FUNERAL ASSISTANCE IN LINE WITH CIVIC FUNERAL POLICY: LATE COUNCILLOR MC MKHIZE (3/5/15)**

(Page 156)

The Executive Committee expressed deepest condolences for the loss of Councillor MC Mkhize who was gunned down on 22 January 2022. It was acknowledged that the deceased was still young and had more to offer to serve the eThekweni residents.

His Worship the Mayor advised of the engagements to be held with the Minister of Police to find ways of getting South African Police Services (SAPS) to fastrack threats assessments for Councillors concerned to be accorded VIP protection. He also advised that the eThekweni Municipality will have to put measures in place for early

detection of warning signs to determine threats surrounding a Councillor and the interventions therefor.

Both the Democratic Alliance and the Inkatha Freedom Party shared similar sentiments that priority be given to addressing issues of Councillor protection. The IFP was of the view that the killing of Councillors is tarnishing the image of eThekweni. Meanwhile, the DA pleaded for prompt action to be taken when it is proven that a Councillor is under threat, pointing out that the SAPS formalities can follow but that proactive steps should be taken by the Municipality in the interim.

The Executive Committee shared similar views on the issue of Councillor killings, and the expedition of the engagement with the Minister of Police and other interventions by the Municipality was expected.

Notwithstanding the comments made, the DA (03) abstained at this stage on the recommendation for the approval of funeral assistance. With the majority being in support,

COMMITTEE RECOMMENDS:

- 5.1 That Council notes the sudden passing of Council Member, Councillor Minenhle Calvin Mkhize.
- 5.2 That authority be granted for the funeral of late Councillor Minenhle Calvin Mkhize to be accorded by the eThekweni Municipal Council a Civic Funeral status, in line with the Civic Funeral Policy.
- 5.3 That in line with the provision of the eThekweni Municipality's Civic Funeral Policy, Council approves allocation of an amount of R100 000.00 (One Hundred Thousand Rand) to contribute towards the burial costs of the late Councillor.
- 5.4 That subject to the approval of 5.3 above, authority be granted to the Deputy Head: Speaker's Office to incur the expenditure in this regard.

Financial implications:

Description	Costs	Vote Number
Civic Burial Assistance	R100 000.00	32123.11400.12120.0000.MRC01.0010
TOTAL COSTS	R100 000.00	

ADOPTED.

6. REQUEST FOR APPROVAL TO ENTER INTO A COLLABORATION WITH UMNGENI WATER IN RESPECT OF THE DEVELOPMENT OF WATER INFRASTRUCTURE FOR ETHEKWINI MUNICIPALITY

(Page L1)

Authority is sought for the Acting City Manager to, on behalf of eThekweni Municipality, enter into a Memorandum of Understanding (MOU) with Umgeni Water

to enable both parties to collaborate on water infrastructure within the eThekweni Municipal area.

It is common knowledge that a number of areas within the Municipality have been experiencing frequent water supply interruptions. Due to aging infrastructure and increase in water demand due to population growth, eThekweni Municipality is struggling to meet its obligations to supply water continuously to all customers connected to its network.

It is against this backdrop that authority is sought to engage Umgeni Water for them to provide support in both the replacement and augmentation of ageing water infrastructure supplying bulk water to parts of Inner West and South Regions of eThekweni Municipality.

Given the requirement to provide citizens with access to appropriate; acceptable; safe; and affordable basic water supply and sanitation services,

COMMITTEE RECOMMENDS:

- 6.1 That authority be granted for the Acting City Manager to commence with the drafting of a Memorandum of Understanding (MOU), supported by the Legal and Compliance Unit, to enable collaborations between eThekweni Municipality and Umgeni Water to solicit support for replacement and augmentation of ageing water infrastructure supplying bulk water to parts of Inner West and South Regions of eThekweni Municipality.
- 6.2 That authority be granted for the Acting City Manager to, on behalf of eThekweni Municipality, enter into the MOU with Umgeni Water, it being recorded that the MOU will be submitted to Council for information purposes.

Commenting on the matter, the ANC advised that a number of areas within the Municipality have been experiencing frequent water supply interruptions due to aging infrastructure. It was reported that the Mayor and the Deputy Mayor had convened community meetings particularly in Umlazi area in order to address the water supply challenges. It being proposed that the Municipality, enters into a Memorandum of Understanding (MOU) with Umgeni Water to enable both parties to collaborate on water infrastructure

Thereafter, the Democratic Alliance queried whether there was no conflict of interest as a result of a Council Member VG Reddy also serving as a Board Member at uMngeni Water.

Following which, Councillor VG Reddy confirmed that he was a Board Member and declared interest on the matter. He advised that this should have been done prior the item being discussed but apparently, he experienced technical glitches at the time. He apologised for the oversight which has occurred but indicated that at least the matter has no financial implications.

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

THIRD REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2022-01-27)

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

1. **ETHEKWINI MUNICIPALITY ANNUAL REPORT 2020/2021 (11/1/1)**

(Circulated electronically)

The Executive Committee received the draft eThekweni Municipality Annual Report for the 2020-21 financial year. It was advised that the Report is tabled for noting as per the statutory requirement. It will then be publicised for stakeholder input, including Council Support Committees, with the Municipal Public Accounts Committee playing an oversight role prior to submitting the final draft Annual Report for Council approval.

Commenting on the draft Annual Report, the Democratic Alliance expressed concerns that apparently key fundamental issues facing the Municipality are not recorded in the Report. That the Report was big on achievements whilst there have been numerous service delivery challenges encountered. Reference was made to the following:

- Looting and riots, that accountability was still required in this regard. That some business owners are still charged Municipal fees even though their businesses were burnt down during the looting. Also, enquiry being made on the implementation of Council decision regarding debt relief measures as a result of looting.
- That the achievement relating to customer service in the Annual Report warrants to be removed given a number of challenges experienced by customers to access the Municipality.
- That Debt Relief Strategy and Indigent Policy represent an appropriate mechanism to support struggling customers but steps need to be taken to ensure proper implementation.
- That Durban recycling has collapsed but in the Annual Report, Cleansing and Solid Waste claims over-achievement in this regard
- That the migration to Huawei for provision of Contact Centre had not been effective in other Departmental Units.
- That the general observation is that the Annual Report is over-subscribed on achievements and under-subscribed on challenges. Mention was made that a number of aspects in the Annual Report are not a true reflection yet this is still to be published for public comments. The item on housing; public transport;

libraries were some of the items highlighted where it was declared that challenges in this regard have not been adequately reported.

The Inkatha Freedom Party acknowledged the financial year under review has been a trying period. As such, officials were commended for the achievements despite all odds, hence the submission of a positive Annual Report. However, that a lot still needs to be done to take the Municipality forward. For proper interventions to be done, the IFP submitted that performance analysis be undertaken to view achievements of the previous financial year compared to the financial year under review. This being done with a view to establishing the achievement rate for leadership to intervene where this appears to remain the same with no progress made.

His Worship the Mayor then acknowledged input made into the draft Annual Report. He agreed that shortcomings have been experienced in certain aspects such as refuse collection; water and electricity; billing system etc. He then made a commitment that a platform will be created, in a form of the Mayoral Lekgotla, to look into all challenges in detail with a view to developing a turnaround strategy where required. He cited the smart meters pilot project and that a presentation will be made to the Executive Committee to get a full understanding of this project and its intended benefits.

His Worship also referred to the mobilisation system and that the Executive Committee should be briefed on progress in this regard. He emphasised that residents should be able to access the Municipality.

Speaking on business relief, His Worship advised it would be imperative to obtain a close out Report for the Executive Committee to obtain information on how many businesses have been assisted by the Municipality.

Notwithstanding challenges, His Worship submitted that eThekweni Municipality is being rated the best performing Metro and that its credit rating is good. That the Municipality is stable, but measures will be put in place to create an investor and tourism friendly environment. Hence, engagements have been initiated with the Minister of Police regarding safety and security issues within the eThekweni Municipal area.

Prior to concluding remarks, the Acting City Manager appreciated the comments received and made an undertaking to effect necessary improvements on areas highlighted in terms of the Annual Report.

Thereafter, His Worship the Mayor concluded by thanking officials for working tirelessly putting together a comprehensive Annual Report.

Accordingly,

COMMITTEE RECOMMENDS:

That in terms of Section 127 of the Local Government: Municipal Finance Management Act No. 56 of 2003, Council notes the eThekweni Municipality Annual Report for the 2020/2021 financial year as circulated, it being recorded the Annual Report will then be subjected to a public participation process prior to submission of a final draft Annual Report including stakeholder input for Council approval.

NOTED.

2. APPOINTMENT OF ECONOMIC FREEDOM FIGHTERS MEMBERSHIP:
MUNICIPAL PUBLIC ACCOUNTS AND ETHICS COMMITTEES

(Page 1)

At the eThekweni Municipal Council meeting of 15 December 2021, the EFF tendered an apology for non-attendance. Hence, they did not submit names of their Members to serve on the MPAC and the Ethics Committee. With the EFF having subsequently submitted the names to the Office of the Speaker, it has become imperative for Council to formalise this appointment since the Membership of these Committees fall under the jurisdiction of Council.

In terms of proportional representation, the EFF is allocated one (01) seat for both the MPAC and the Ethics Committee. Given that the EFF Membership is not part of the Council approval of 15 December 2021, it is proposed that this be addressed for the Committees concerned to be properly constituted.

COMMITTEE RECOMMENDS:

That Council approves the Membership of the Economic Freedom Fighters on the Municipal Public Accounts and the Ethics Committees as follows:

No.	Committee Name	Proportional Representation	Member
1.	Municipal Public Accounts	1 Member	Cllr Vukani Ndlovu
2.	Ethics	1 Member	Cllr Themba Mvubu

ADOPTED.

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

1. NOTICE OF MOTION: PROPOSED BY COUNCILLOR S SINGH AND
SECONDED BY COUNCILLOR M JOHNSON: INFILL HOUSING SCHEME
DEVELOPMENT (21/8/3 & 3/4/9)

The Majority of the Soccer fields, playlots and vacant lands maintained by the community of Phoenix were taken away for the Infill Housing Scheme. There has been no community participation or consultation in this process. The Lands in question still fall under eThekweni Municipality until there is a transfer of Title Deed done.

It was Resolved:

The Executive Committee urgently investigate and report back to Council that: -

1. Before any Infill Housing Scheme development starts was any vacant lands, there must be participation/consultation done first.
2. If there is majority of objections of Infill Housing on any vacant land from residents living in the area, then Council should retain the land and stop any developments.

Councillor S Singh moved the Notice of Motion on behalf of Councillor M Johnson and thereafter motivated same.

CARRIED

The Motion submitted by Councillor S Singh was unanimously, **CARRIED.**

ITEMS FOR NOTING

The Items for Noting, reflected on Pages 28 to 33 of the Agenda, pertaining to the items discussed and resolved at the Executive Committee level during the month of December 2021 were, **NOTED.**

The meeting terminated at 15h45.

NOTED AT THE MEETING OF THE ETHEKWINI COUNCIL ON 2021-02-28.

SPEAKER