

**No. 56**

# **MINUTES**

## **OF**

# **ETHEKWINI MUNICIPAL COUNCIL**

Meeting held on Wednesday, 2024-01-31T10:00,  
Inkosi Albert Luthuli International Conventional Centre, Durban.

**PRESENT :** Councillors TE Nyawose (Speaker), TM Kaunda (Mayor), ZP Myeni (Deputy Mayor), J Annipen, A Abdul, AD Beesley, A Beetge, M Billy, JM Black, NJ Bollman, M Brauteseth, MH Buthelezi, WJD Burne, KPM Cele, SB Cele, SP Chebure, J Chetty, R Cloete, CB Dlamini, J Essop, BA Fortein, SN Gabela, SG Gama, GM Gasa, DM Gcabashe, FO Gcabashe, R Gokool, G Govender, S Govender, SV Govender, Y Govender, BR Gumede, NC Gumede, S Gumede, MS Gwala, GJ Hegter, MM Hlengwa, NP Hlomuka, SD Hlongwa, F Ismail, MF Ismail, LBS Jali, DM James, M Johnson, MA Mgobhozi, K Khambule, MH Khan, SM Khanyile, NP Khawula, MN Khubisa, KNN Khubone, NL Khuzwayo, ZW Khuzwayo, SNC Khwela, A Kissoon, BG Kubheka, V Kunju, CJ Laing, SW Lushaba, M Lutchmen, WM Luthuli, ME Mabaso, RD Macpherson, MA Madlala, NI Madlala, SR Madlala, A Maharajh, RP Maharaj, S Maharaj, FN Majola, TG Makhanya, HS Makhathini, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, RP Mbonambi, BA Mchunu, NP Mchunu, SW Mcineka, RL McKenzie, X Mdlazi, FW Mdletshe, D Mea, SP Mfeka, K Mhlaba, DPM Mhlongo, GN Mhlongo, NM Mhlongo, SE Mhlongo, T Miya, AZ Mkhize, KV Mkhize, MA Mkhize, ME Mkhize, MP Mkhize, NN Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, ZM Mncwango, E Mngadi, SV Mngadi, BR Mngadi, DF Mngadi, S Mngadi, MR Mngonyama, TJ Mnguni, DP Mngoma, BV Mngwengwe, ZO Mnomiya, S Mnyandu, SR Moodley, T Mohamed, R Moses, ND Motseke, SB Mpanza, LI Msomi, DV Msweli, SSS Mthethwa, TD Mthethwa, TM Mthethwa, N Munien, OB Mvubu, SK Mzimela, BD Naidoo, J Naidoo, S Nala, V Ncukana, NB Ndlela, AB Ndlovu, PB Ndlovu, PC Ndlovu, NS Ndlovu, TB Ndlovu, V Ndlovu, SG Nene, TH Nene, SB Ngcongco, DB Ngubane, LE Nkomeni, MS Nkosi, DR Nowbuth, XM Nqweniso, DM Nsundwane, SH Ntombela, PC Ntshangase, BT Ntuli, N Ntuli, NZ Ntuli, PB Ntuli, B Nxumalo, MR Nxumalo, PH Nxumalo, NN Nyanisa, MV Nzimande-Madlala, AAK Paruk, AE Peterson, AS Phahla, BW Phewa, DT Pillay, P Pillay, GDA Pullan, VG Reddy, T Sabelo, S Sewshanker, BH Shange, LP Shange, MG Shange, TE Shezi, IM Shinga, HP Shoji, JN Sibisi, WP Sibisi, KS Sibisi, A Shaheed, 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, M Thusi, ME Thusi, ZN Tshazela, NT Tyelinzima, JC Van den Berg, HM Van Der Ryst, NB Vilakazi, NI Webster, SM Windvogel, TV Xulu, ON Zondi-Mthembu, T Xuma, M Zondi, N Zondi and TG Zungu.

ABSENT : T Biyela (Personal Commitments), SV De Boer (Indisposed), Z Dzanibe (Indisposed), NBC Godlwana, KT Mbhele, JL Mchunu, MB Mjadu (Personal Commitments), NA Mkhize (Indisposed), LG Mthembu (Personal Commitments), MF Ndlovu (Indisposed), A Rampersad, NY Young (Indisposed) and GN Zondi.

AMAKHOSI

PRESENT : Inkosi S Mlaba and Inkosi EB Shozi.

AMAKHOSI

ABSENT : Inkosi JJ Shangase.

OFFICIALS

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

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*(Prior to opening the meeting, time being 10h10, the Speaker requested Secretariat to confirm the number of Councillors present at this meeting to establish if the meeting was quorate.)*

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(Thereafter, with the time, being 10h16; a confirmation was given that 209 Councillors were present, comprising ANC - 94, DA - 55, EFF - 20, IFP - 15, ActionSA - 04, ABC - 02, ACC - 02, ACDP - 01, AIC - 02, ADEC - 00, APF - 01, ATM - 01, AL JAMA-AH - 01, DLC - 01, JEP - 01, KZNI - 01, MF - 01, MOSA - 01, NFP - 01, PFP - 01, PRM - 01, TA- 01, UIM - 01 and VF Plus - 01.

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1. NOTICE CONVENING THE MEETING

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

2. OPENING

The Speaker declared the meeting open at 10h16 and extended a warm welcome to Councillors; Traditional Leaders; City Manager; Deputy City Managers; Deputy Heads 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 the meeting stood to sing the African Union Anthem and the National Anthem of the Republic of South Africa.

*Following singing of the National Anthems, Councillor Mthethwa of DA drew the attention of Council to the Rules of Order, By-Law, 2014 as amended, with specific reference to Rule 12 (2) read as follows: -*

*“The Speaker may change the order in which the matters appear on the agenda after considering suitable motivation.”*

*In this regard, Councilor Mthethwa requested indulgence of the Speaker to amend the order of proceedings for this meeting and to allow the Notice of Motion on Page 32 of the agenda to be considered as the second items after the Presentation from Auditor General: Annual Report.*

*However, the above proposal from Councillor Mthethwa was dismissed by the Speaker and he further advised that alterations of the order of proceedings would be determined by the Chairperson of Council.*

#### 4. OPPORTUNITY FOR PRAYER/MEDITATION

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

#### 5. OFFICIAL ANNOUNCEMENTS

The item was deferred to the next meeting.

#### 6. SPEAKER’S REPORT

##### 6.1 **Purpose**

In presenting his Report, the Speaker submitted that the purpose was to report the activities undertaken by the Municipal Council during the month of December – January 2023, in line with the provision of Section 13(f) of the Rules of Order By-Law 2014, as amended; the report covers the Update on the Alleged Breaches with Schedule 7: Code of Conduct for Councillors; Community engagements and Ward Committees as well as the Composition of the Municipal Council

##### 6.2 **Municipal Council Activities**

It was reported that the Municipality undertook the following activities over the month December 2023 – January 2024

Date	Nature of the activity	Benefit derived from the activity
15-31 December 2023	Various festive seasons programmes and events throughout the City – ranging from sports; entertainment, etc.	<ul style="list-style-type: none"> <li>- <b>Promotion of the City as a leading tourist destination</b></li> <li>- <b>Positive injection to the local economy</b></li> </ul>
15 January 2024	Visit by Political Leadership with officials to various wards, in such as Wards 78; 95; 111, etc. impacted by the storm experienced on Saturday, 13 <sup>th</sup> of January 2024	<ul style="list-style-type: none"> <li>- <b>Immediate relief provided to families that were impacted the most by the disaster</b></li> <li>- <b>Quantified number of impacted areas, and extent of the impact, to enable urgent response plans to be developed accordingly</b></li> </ul>

Date	Nature of the activity	Benefit derived from the activity
26 January 2024	Engagement with community of Hammersdale led by His Worship, the Mayor	<ul style="list-style-type: none"> <li>- To address the community on the identified causes of water outage being experienced</li> <li>- To update the communities on the Municipal plans and interventions to address the water challenges</li> </ul>
27 January 2024	Community engagement in Verulam and Phoenix	<ul style="list-style-type: none"> <li>- To address communities on the ongoing water shortage matter and give update on the municipal plans to restore water</li> </ul>

It being noted that the stakeholder engagements are ongoing, especially with the water outages matter being experienced in several Wards. Different media platforms are being used to keep community members informed on the interventions and plans being provided by the Municipality to attempt to and restore water.

### **6.3 Update: Alleged Breaches in Terms of Schedule 7: Code of Conduct For Councillors**

- 6.3.1 It was recalled that at the last meeting held on 11 December 2023, the matter pertaining to the conduct of Economic Freedom Fighters (EFF) Councillors at a meeting held on 31 October 2023, and that of African National Congress (ANC) Councillors at a meeting held on 15 August 2023 was reported. It was indicated that the Speaker was investing the above-mentioned matters pertaining to the said Councillor's conduct during the two respective Council meetings.
- 6.3.2 It was further reported that the Speaker had addressed the matter through Section 15 of the Code of Conduct for Councillors, giving the implicated Councillors an opportunity to respond in writing on the allegations raised. Responses thereof were received accordingly and considered.
- 6.3.3 In terms of implicated Councillors, a total of 95 from ANC and 18 from EFF, showed remorse for their behaviour and further apologized accordingly. Having considered the submissions made, all the 122 Councillors (both ANC and EFF) were indeed found guilty of breaching the Code of Conduct for Councillors and were sanctioned formal warnings.
- 6.3.4 This matter was reported in compliance with Section 15(1)(c) of the Code of Conduct for Councillors which requires that once the Speaker has investigated facts and circumstances of an alleged breach and given a Councillor a reasonable opportunity to reply in writing regarding the alleged breach, the matter be reported accordingly to a meeting of the Municipal Council.
- 6.3.5 The outcome of the above-mentioned investigations will also be reported accordingly to the MEC for Cooperative Governance and Traditional Affairs.

#### **6.4 Community Engagements and Ward Committees**

- 6.4.1 Council noted that from 12 December 2023 to 12 January 2024 the Municipal Council was on recess, and Ward Committees as part of Council Committees were also on recess, in line with the Rules regulating their operation.
- 6.4.2 Given the above-mentioned Council recess, it was reported that to date there were currently five (05) wards that have held and reported on community engagements held. Councillors were however, reminded to continuously hold the required stakeholder engagements.
- 6.4.3 Council to note that the quarter 2 (October – December 2023) Ward Committees functionality assessment shall be conducted by COGTA on 07 March 2024. Ward Councillors to note that the Ward Committee support team would be going around consulting in preparation for the said assessment, and confirming relevant documents required for the assessment and verification process.
- 6.4.4 As part of ongoing Ward Committee interventions, a Councillor's Workshop is being convened to address Water Committee operational matters and try address ward-based service delivery matters. After finalizing the logistics for the said Workshop, Councillors will be advised accordingly.

#### **6.5 Composition of the Municipal Council**

- 6.5.1 It was recalled that at the last meeting, it was reported that the Municipal Council had a vacancy in Ward 101, where erstwhile Councillor Mzimuni Ngiba from the African National Congress (ANC) was removed from office.
- 6.5.2 A by-election was scheduled for 13 December 2023, and it was reported that the vacancy in the said ward was indeed filled with Councillor Simphiwe Khanyile from the ANC being duly elected. Councillor Khanyile was accordingly formally welcomed to the eThekweni Municipal Council.
- 6.5.3 Council further noted that currently the Municipal Council was fully constituted with 222 Members, there being no vacancies.

**At the conclusion of the Speaker's Report, the DA enquired whether the Councillors found guilty for breaching the Code of Conduct with respect to cases of alleged misconduct were referred to the Ethics Committee. In response, the Council was informed that by the powers vested upon the Speaker any case of alleged misconduct are first scrutinized at his level and decision thereafter made on the manner to deal with a particular case which then includes referral to the Ethics Committee if decided as such.**

**Meanwhile, the ActionSA requested the ANC and the EFF Councillors already issued with sanctions for their misconduct in the Council meeting of 15 August 2023 and 31 October 2023 respectively. As it has been reported that they have showed remorse for their behaviour to then further apologise to this Council meeting. However, this was overruled by the Speaker, it being advised that the matter has now been finalised and resolved.**

7. APPLICATIONS FOR LEAVE OF ABSENCE

**RESOLVED:**

The following Councillors be granted leave of absence as indicated:

**COUNCILLORS**

Councillor T Biyela	:	2024-01-31	Personal Commitments
Councillor SV De Boer	:	2024-01-20 To 2024-02-03	Indisposed
Councillor Z Dzanibe	:	2024-01-22 To 2024-02-16	Indisposed
Councillor MB Mjadu	:	2024-01-30 To 2024-01-31	Personal Commitments
Councillor NA Mkhize	:	2024-01-30 To 2024-01-31	Indisposed
Councillor LG Mthembu	:	2024-01-29 To 2024-01-31	Personal Commitments
Councillor MF Ndlovu	:	2024-01-31	Indisposed
Councillor NY Young	:	2024-01-31	Indisposed

*Immediately following the adoption of the leave of absence, the EFF raised a point of order wherein they quired progress report on the motion which was carried by Council relative to the Security Officers under private security companies being appointed by the Municipality on a permanent basis.*

*However, the Speaker reported that the matter was still being investigated and attended to by the Executive Committee.*

8. DECLARATION OF INTEREST

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

9. CONFIRMATION OF MINUTES: MEETING HELD 2023-12-11 (Ordinary) and 2023-12-11 (In-Committee).

Councillor Pullan made a correction on Page 2430, item 3, paragraph 1; column 1, to read as follows “.....by excluding a portion of Tongaat and Hazelmere Dam from the Municipal area of eThekweni Cat C (ETH) and by including them into the Municipal area of Ndwedwe LM (KZN 293), and iLembe DM (DC 29) Ward 60,61”. The amendment was noted accordingly.

- (i) Subsequently, His Worship the Mayor Councillor Kaunda moved for the adoption of the Minutes for the Meeting held on 2023-12-11 (Ordinary) and was duly seconded by Councillor Mngwengwe.
- (ii) The Minutes of the Meeting of 2023-12-11 (In-Committee), were deferred during an In-Committee session.

Accordingly, it was

**RESOLVED:**

That the Minutes of the meeting of the eThekweni Municipal Council held 2023-12-11 (Ordinary), as circulated and taken as read, be and are hereby confirmed with correction on Page 2430, item 3, paragraph 1; column 1, to read as follows “.....by excluding a portion of Tongaat and Hazelmere Dam from the Municipal area of eThekweni Cat C (ETH) and by including them into the Municipal area of Ndwedwe LM (KZN 293), and iLembe DM (DC 29) Ward 60,61”.

10. MATTERS ARISING

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

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

11.1 Questions submitted by Councillor M Billy: Abuse of Municipal Vehicles

Noting that the City has a Fleet Management Policy approved in 2017 which seeks to ensure that all fleet in the City is managed and operated following certain rules and procedures it is prudent to ascertain if the administration operates in line with these to ensure there is no abuse of Municipal vehicles.

In light of the above, I posed the following questions: -

1. How many operating light motor vehicles, heavy motor vehicles and heavy plant vehicles does City Fleet own and manage?
2. How many operating light motor vehicles, heavy motor vehicles and heavy plant vehicles does the various Unit have and manage?
3. How many take-home vehicles and who or what positions do the drivers hold for the period 01 July 2021 to 01 December 2023? Please specify vehicles details.
4. How many dedicated vehicles and who or what position do the drivers hold for the period 01 July 2021 to 01 December 2023? Please specify vehicles details.
5. How many vehicles are presently unlicensed? If there is, why?
6. How many vehicles have a tracking device that is functioning?
7. How many vehicles have been disposed between the period 01 July 2016 till 01 July 2023? Please specify:
  - (a) Disposed because the vehicles have reached the end of their economic lifespan?
  - (b) Disposed because it has become uneconomical to maintain or repair the vehicle/s?
  - (c) What process was followed to dispose of the vehicles?

**DEFERRED, to a Special Meeting.**

11.2 Questions submitted by Councillor A Beesley: Development of the Oceans Mall Umhlanga

The Oceans uMhlanga Development has been approved as a Catalytic Project. Whilst there may be some positive benefits from this development, as things currently stand, this development has been largely negative for the residents and tourists of uMhlanga.

Within this context, I posed the following questions of the Oceans Mall Development:-

1. The development was approved as a Catalytic Project on the basis that additional income of R135 million would accrue to the City from rates and service charges.
  - On a monthly basis how much is currently accruing to the City from rates and service charges from the development?
  - If there is a shortfall from the approved amount of R135 million is the developer being held responsible for this shortfall?
  - If not, why?
2. Two of the towers remain uncompleted and are an eyesore.
  - Is the developer being charged rates on these towers and the unbuilt bulk?
  - If not, why?
  - Has the developer been given a deadline to complete these two towers?
  - If so, when is the deadline?
  - If not why?
3. The roads and infrastructure around the development can be best described as a mess and will have an enormous impact if not resolved before the festive period.
  - When will the roads and infrastructure around the development be completed?
  - If not before the festive period, what plans has the City got in place to ensure that there is no traffic chaos?
4. Since the development started, uMhlanga beach have been closed often due to high E-coli levels.
  - Is the City constantly monitoring the impact that the development is having on the sewage infrastructure?
5. The development was approved on the basis that a Public Transport Facility (PTF) was in place.
  - Why was the developer not compelled to adhere to the original PTF?
  - What is the alternate PTF solution that will be implemented?
  - When will this alternate solution be implemented?
6. The development has a massive outdoor advertising scree.
  - Does the outdoor advertising screen meet all the City By-Laws with particular reference to the Outdoor Advertising By-Law?
  - If not, what is being done about it?
7. There is constant noise coming from the development late at night.
  - Does the development and its tenants comply with the Nuisance and behaviour in Public Places By-Laws?
  - If not, what is being done about it?
8. The development has a special parking bay reserved for supercars.  
What is the definition of a supercar?
  - Does Metro do regular checks on this parking bay to ensure that these are properly registered and have number plates?
  - Do Councillors and City officials park in these reserve parkings?

**DEFERRED, to a Special Meeting.**



11.3

Questions submitted by Councillor N Bollman: Neglect of the Glenashley Open spaces, Ward 35

In Glenashley, a suburb in Ward 35, an expense of approximately 62 000m<sup>2</sup> of once-maintained open spaces has fallen into disarray. The eThekweni Parks Development, responsible for its care until 2019, ceased maintenance, citing that the entire span of vacant property within Glenashley is privately owned by the suburb's original developer from the 1950s.

The shift in responsibility has resulted in the suburb's overall appearance becoming untidy, leading to concerns beyond aesthetics. The neglect has coincided with an increase in criminal activity and a decline in property values. Additionally, this neglect conflicts with Section 6 (1) of the Nuisance and Behaviour in Public Spaces By-Law, 2015, which prohibits interference with public service infrastructure or causing inconvenience to those using public roads.

In light of the above, I posed the following questions: -

1. Has the privately owned entity responsible for these properties been identified by the eThekweni Municipality?
2. Could you provide specific details regarding the ownership of the said properties, including the name of the entity or individual(s) owning the property, contact details, and any other pertinent information?
3. Is the privately owned entity registered ratepayer within the eThekweni Municipality?
4. Is the entity receiving monthly utility bills for the approximate 62000m<sup>2</sup> property in question?
5. Are the rates for this property up-to-date in terms of payment to the Municipality?
6. Is there an existing Memorandum of Understanding or any formal agreement between the Municipality and the privately owned entity regarding the upkeep of these properties?
7. Has the director or responsible party for the privately owned property been located and contacted by the Municipality concerning this matter?
8. If contact was established, what was the outcome of this interaction, if any?
9. What contingency plans or measure are in place to deal with this particular situation in Glenashley?
10. Providing the privately owned entity is not a registered ratepayer, what will the Municipality do in order to:
  - Recover rates; and
  - Bill the entity accordingly.
11. What contingency plans or measures does the Municipality have in place to maintain privately owned properties when they contravene Municipal By-Laws or Regulations, particularly in Section 6 (1) of the Nuisance and Behaviour in Public Places By-Laws, 2015?

**DEFERRED, to a Special Meeting.**

11.4 Questions submitted by Councillor GJ Hegter: Shortage of Lifeguards in the 2023/2024 Holiday Seasons

With the 2023/2024 holiday season ending it needs to be recognised that it is only due to the dedication of our professional Lifeguards that we only have one (01) drowning over this period. It is understood that over this period there were several shortages of Lifeguards on our beaches and at pools.

In light of the above, I posed the following questions: -

1. How many permanent Lifeguards do we currently have in service?
  - On the beaches?
  - At swimming pools?
2. How many of these Lifeguards passed their annual swim test?
  - On the beaches?
  - At swimming pools?
3. How many temporary Lifeguards are currently employed?
  - On the beaches?
  - At swimming pools?
  - If none, why not?
4. How many seasonal Lifeguards are currently employed?
  - On the beaches?
  - At swimming pools?
  - If none, why not?

**DEFERRED, to a Special Meeting.**

11.5 Questions submitted by Councillor M Ismail: Hijacked Buildings in the Durban Central Business District (CBD) and other Areas

Hijacked buildings in the Durban CBD and other areas are nothing less than a real estate pandemic. This systematic exercise of real estate invasion is notable for costing the City losses of revenue running into millions of rands.

Therefore, the Active Citizens Coalition, rise to table the following questions: -

1. What is the magnitude of the hijacked buildings in the eThekweni Municipality precinct?
2. Who are the roleplayers or people responsible for the hijacked building rehabilitation and is there a constructive plan for recovery of these buildings?
3. Has the City brought any criminal charges against slumlords or syndicate operating these buildings?
4. Is the City engaging with owners in terms of debt relief and recovery of their building in partnership with landowners?

5. What would be the quantum in rand value of rates, electricity and water as well as Cleaning and Solid Waste service losses to the City due to Bad Buildings?
6. What is being done about illegal electricity and water connections to the buildings?
7. What is the timeframe by the City to resolve the issue of illegal occupation or hijacked buildings?
8. Do we have a list identifying bad buildings in the City and can this be provided?
9. Have the owners of these buildings ever been contacted by the City to find a solution to the decay and possible invasion of more buildings?

**DEFERRED, to a Special Meeting.**

12. REPORTS:

*(It should be noted that this item was discussed as the first item, however, it is being recorded hereunder to achieve chronological order.)*

(i) PRESENTATION BY AUDITOR GENERAL: 2022/2023 ANNUAL REPORT

The Speaker invited the officials from Auditor General SA to present the 2022/2023 Annual Report.

Thereafter, Ms V Maharaj, Head of Portfolio in the Office of the Auditor General responsible for KwaZulu Natal, Eastern Cape and the Mpumalanga Provinces presented the 2022/2023 eThekweni Audit Report, in conjunction with Ms N Mkhize, Business Unit Leader in the Office of the Auditor General. She announced that eThekweni Municipality has received an unqualified audit opinion outcome for the 2022/2023 financial year. The report was based on the financial statement of the Municipality as of 30 June 2023.

During her presentation she applauded the Municipality for presenting credible and reliable financial statements that are free of material misstatements, however, it was also mentioned that there were other findings on the predetermined objectives and compliance. It was cited that the audit outcome of the Municipality has remained stagnant for the 2022/2023 period. That the lack of appropriate oversight and monitoring by leadership over the control environment resulted in material misstatements in the performance information and repeat non-compliances with legislation relating to environmental, expenditure, consequence and procurement and contract management.

Ms N Mkhize then took over to present the reminder of the report, where she highlighted that the Municipality was under pressure in terms of its financial health and highlighted that with regard to revenue, there was a slow pace of payments from debtors, with an average debt-collection period which equaled to one hundred and five (105) days and 56,3% of accounts receivable has been provided for impairment as at the end of June 2023. In terms of expenditure, the reported average creditor-payment period was 68 days, 3,9% spending on repairs and maintenance; the total capital expenditure was 9,2% of total expenditure and 58,2% for water distribution losses. It was indicated that the impact thereof was a high level of debtors impairment affects the municipality's cash generation and could negatively impact self-funded programs

aimed at the core function of providing basic service delivery to the citizens of the metro. A high creditor-payment period leads to late payments which could attract interest resulting in fruitless and wasteful expenditure and affecting the financial viability of suppliers. The continued lack of adequate asset maintenance will further strain an already deteriorating asset network impacting on the municipality's ability to effectively deliver on its mandate. The non-provision of services negatively affects the revenue generation of the municipality and further impact economic growth.

Therefore, the following recommendations, were provided in this regard:-

- Monitoring of payments review and approval processes must be intensified.
- Alternate mechanisms to improve collections such as incentives must be considered to improve cash collection rates.
- Allocation of operating and capital budgets for asset renewal and upgrading must be aligned to National Treasury norms.

In terms of achievement of key performance targets, she presented a summarised information from key programmes, where it was indicated that the eThekweni Municipality achieved 74,58% of the planned targets for the year against a budget spend of 94,79% in the selected plan create a quality living environment. Some of the planned targets that were not achieved related to key service delivery indicators on water, sanitation and electricity. The audit included an assessment on the delivery of housing, electricity, roads, water and sanitation services, wastewater management and solid waste management which included aspects of environmental management and infrastructure management. As part of the assessment the audit team performed procedures on:-

- Understanding the processes for environmental risk identification and monitoring;
- Licensing of the relevant plants and landfill sites;
- Physical site visits including conditional assessments and
- Processes for preventing pollution or degradation of the environment.

In respect of Key Projects, she spoke of the following:

- (i) Waste Water Treatment Works (Umbilo, Hammarsdale and Umdloti).

Overall observation results were highlighted as follows:

- Lack of adequate maintenance to prevent malfunctioning;
- Inadequate measures to prevent and pollution and degradation of adjacent waterways;
- Delayed SCM processes  
In protecting the environment, avoiding harm to the public and addressing the negative impact on economic growth, management should
- Conduct regular reviews of the existing sewerage network in developing plans to address deficiencies in the short, medium and long term.
- Ensure operating and capital budgets are appropriate to support actions plans inclusive of National Treasury recommended norms.

- (ii) Housing project - Namibia Stop 8 housing /project.

- It was noted that the project was approved in 2015, aimed to construct 1977 housing units, with the initial phase (Stop 8) comprising 343 units costing R99,99 million.
- Delays led to funds being redirected to bulk infrastructure (roads, water, sanitation). The project, extended to June 2023, saw only three houses completed, with total expenditure at R99,87 million as of June 30, 2023.
- Poor workmanship led to homes intended for beneficiaries with disabilities failing to meet specific standards and posing safety concerns.
- In addressing the cause of ineffective project management, the focus must move to the development of SOPs for each project milestone including
  - streamlining the planning process and
  - regular monitoring of timelines and targets.

(iii) Electricity Project – New Austerville Substation 132/11kV

The project designs were approved in 2014 with construction awarded in 2020 @ R20.91 million for a period of 265 days.

At the time of audit, the project was halted with progress at 63.97% complete, with an expenditure of R16.86 million.

Significant project delays due to:

- expiry of contracts for a panel of professional service providers,
- re-performing of a geotechnical investigation and an extended time to finalise designs;
- budget confirmation;
- payment delays and
- business forum dissatisfaction.

Management was advised to:-

- Improve oversight of projects through timely and regular inspections
- Regular monitoring of the contract to enable early intervention for expiring contracts.

She further spoke of the audit of the Municipality Disaster Management Centre (MDMC) which was aimed at reviewing processes of the Metro's preparedness, co-ordination and oversight over disaster management, disaster response and recovery, and rehabilitation of damages, in line with the Disaster Management Act (DMA) and the Framework, which prescribes key elements/ criteria for disaster management.

The following was highlighted as the overall observation results of service delivery work:-

- Legislative requirements not followed in the appointment of the Head of MDMC
- The Municipal Disaster Management Plan (MDMP) is outdated
- Inadequate institutional capacity noted at the MDMC
- Funding for disaster relief not adequate for response, recovery, rehabilitation, and reconstruction

- Municipal Unit's DMP are not formalised, not revised or not in place
- Funding for disaster relief not adequate for response, recovery, rehabilitation, and reconstruction
- Inefficiency in the procurement process
- Ineffective simulated drills and integrated training to prepare for potential disasters
- Inadequate institutional capacity noted at the MDMC
- Failure to review Disaster Management Plans

The overall key observation and recommendation related to ICT environment were presented as follows:-

As a result of a fragmented ICT function the eThekweni Municipal Council in March of 2020 recommended and adopted that all Information & Communication Technology matters for the Municipality be managed centrally by the Information Management Unit (IMU) and that funding for such matters be allocated evenly. The Council resolution for the central management of all Information and Communication Technology matters has not been fully implemented.

### **Impact**

In the absence of a relevant, approved and consolidated IT strategy, the Information Management Unit (IMU) and Electricity Information and Communication Technology (ICT) units may not have clear guidelines to enable the achievement of municipal strategic initiatives and operational process efficiencies from the use of ICT resources.

Furthermore, differing practices and systems being applied across the separate ICT units could affect the management of people, processes and projects inhibiting the achievement of desired municipal strategic objectives.

### **Cause**

The respective Heads of the IMU and Electricity ICT Units were still awaiting feedback from Unit Local Labour Forum (ULLF) on the proposed movement of staff.

Once feedback is received the Chief Information Officer (CIO) will be able to follow due processes that will enable the approval for the required structural amendments and formulate a report which will then be used to initiate internal consultation and implement a consolidated ICT Unit.

### **Audit Recommendations**

eThekweni Municipality Executive Management should ensure that the consultation with Labour is finalised. Action plans should be implemented for the Council recommendation of the centralised management of all ICT matters to be concluded.

Review and update respective IT Strategy documents to ensure it aligns to the goals and adequately supports the achievement of the municipality's overall strategic goals.

Regular oversight and project implementation reports should be obtained by Council to ensure that Committee recommendations are effectively and timeously implemented.

In concluding her presentation, she submitted the following recommendations to Council to improve audit outcomes: -

- Setting the tone at the top by shifting the culture of the Municipality towards credible performance reporting, compliance with legislation and effective project management. This can be achieved by enforcing oversight and accountability for transgressions.
- Intensify oversight on asset management and monitoring of projects.
- Capacitate disciplinary boards to enable timely completion of investigations into financial misconduct and ensure that their recommendations are implemented.

Thereafter, Council members submitted the following: -

- The DA expressed concern on what they viewed as unfavourable audit opinion outcome, citing non-implementation of consequence management, unmonitored expenditure, escalating irregular expenditure from R1,5 billion in 2019 to R3,6 billion as of 30 June 2023. Further, stating that the leadership of the Municipality has no capacity to change to the status quo.

They emphasised that Council should not celebrate the unqualified audit opinion outcome, as the Municipality has only resolved one (01) out of seven (07) material irregularities, an enquiry being made regarding the steps to be taken by the Auditor General to compel the Municipality to deal with repeated transgressions.

The DA further enquired whether the Auditor General had investigated the historical debt owed by the Tansnat, Municipal Bus Operator, which had been subjected to arbitration processes for more than five (05) years; and further requesting relevant findings and recommendations thereof.

- The Speaker advised that Management responses to the audit findings had been prepared and will be discussed further by relevant Support Committees.
- The EFF welcomed the report from the Auditor General and applauded Municipal Officials for producing reports and cited that the audit opinion received was satisfactory, having potential to be improved further. However, they also raised concerns on the 56,3% of accounts receivable which had been provided for impairment, the average creditor-payment period which was sixty-eight (68) days, whereas the norm is thirty (30) thirty days; and fragmented Information & Communication Technology matters for the Municipality (ICT) which had to be managed centrally by the Information Management Unit (IMU) and that funding for such matters be allocated evenly. The Council resolution for the central management of all ICT matters has not been fully implemented.
- Meanwhile, the IFP apologized for joining the meeting late and mentioned that this was a result of the Special Executive Committee meeting which was scheduled earlier on this day. Thereafter, they enquired on the actions to be taken by the Auditor General in the event that the Municipality had not fulfilled its commitment made to address or resolve previous findings. They also mentioned that in terms of section 52 of the Local Government: Municipal Finance Management Act No. 56 of 2003, it was the responsibility of the mayor to provide political guidance

over fiscal and financial affairs of the Municipality; and to monitor and oversee the responsibilities of the Accounting Officer and the Chief Financial Officer, as they expressed a concern on 58,2 % of non-revenue water losses and indicated that to date nothing has been done to resolve the matter.

- The ActionSA also cited that the unqualified audit opinion should not be celebrated by Council and indicated that the report reflects substandard financial management by the Municipality, citing the R3,6 billion of irregular expenditure, 58,2% water losses, 3,9 % spent on infrastructure maintenance. They also expressed a concern that Councillors were being banned from playing their oversight role, particularly for visits in Municipal infrastructure project sites.
- The ACDP welcomed the report and highlighted that it was a true reflection, further stating that Municipality had made promises in the past which had not been fulfilled. They emphasised that the Auditor General should hold the leadership of the Municipality accountable.
- The DLC also mentioned that the audit outcome was a true reflection of the Municipality's financial affairs. They emphasized that the Municipality had a multi-party Executive Committee system, therefore all members of the aforesaid Committee had to take all the blame should there be dysfunctionalities in the Municipality. They further expressed concern on irregular expenditure due to weaknesses in internal controls, repeated findings and supply chain management processes which were being ignored.
- Also commenting on the audit outcome, the VF-Plus commended the work which had been undertaken, however they expressed concern on the ICT environment finding, wasteful expenditure on projects, escalating irregular expenditure and enquired whether the yearly R1,5 billion for capital projects was being monitored.
- Thereafter, the ANC welcomed the presentation from the Auditor General (AG) and mentioned that when irregular expenditure is being declared by the AG, there was no mention of value for money for projects implemented. They highlighted that AG has made mention on their presentation that the top contributor of irregular expenditure was as a result of non-compliance with supply chain management local content. They further emphasised that eThekweni Metropolitan is a deeply rural City and as a result water is also being supplied through water tankers and therefore those communities being supplied with water were not paying for such, however, the Municipality was to quantify the amount of water being supplied through water tankers and standpipes.
- They also appreciated the opportunity being given by Clusters for Support Committees to conduct site inspections in order for Councillors to effectively fulfil their oversight role. It was also cited that climate change has immensely affected the City's plan; however, the Municipality has remained resilient and was able to obtain an unqualified report and Municipal officials and leadership were commended for producing credible and reliable financial statements. Also, that the City's leadership remain committed to monitoring expenditure to further reduce irregular expenditure and that follow ups will be undertaken on commitments made. They also acknowledged challenges, however further, highlighted that eThekweni was named the most financially stable Metro in the Country by the National Treasury. It was emphasized that oversight visits to Municipal project sites have not been banned, however anarchy was not allowed as Councillors were



required to obtain permission from the Senior Management and not to contact junior officials directly in line with the applicable protocols.

- In response Ms Maharaj advised that there was a methodology being utilised when issues of non-compliance, theft, financial loss, general harm to the public, unresolved material irregularities etc were reported within the Municipality. She indicated that letters with stipulated timeframes for responses are first issued to the City Manager, assessments of the responses received are done, whereafter if the matters cannot be resolved, remedial actions are taken with the matter being referred to the public bodies.
- With regards to the Municipal Bus Operator matter, it was advised that the matter was not investigated as it was not part of the projects that were earmarked for the 2023/2024 financial year audit. She further mentioned that in terms of the water losses and other audit findings, regular update in terms of the audit action plan had to be monitored in order to track progress thereof, and that collaborative efforts were essential to achieve overall success.

In closing, 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.

(ii) Presentation by Water & Sanitation Unit: Water Crisis

*Prior to the presentation of the above matter, the EFF requested ten (10) minutes for a caucus, time being 12h25, however the Speaker granted eight (08) minutes. The meeting later resumed at 13h08pm.*

The Speaker reported that consideration of the above matter will be deferred, until such time that the delegates from the National Department of Water and Sanitation as well as uMngeni-uThukela Water were available.

Accordingly, consideration of the matter relative to the Presentation by Water & Sanitation Unit: Water Crisis was, **DEFERRED**.

**At this stage of the meeting and due to time constraints as the meeting has prolonged afterhours, the Speaker requested Council to prioritize compliance matters and then defer other items to a Special meeting. For ease of achieving sequence, the items discussed are still recorded in the manner in which they appear in the Executive Committee Report contained on the Agenda.**

**(The Deputy Mayor, Councillor Z Myeni tabled the First Report of the Executive Committee).**

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

(Meeting held 2024-01-23)

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

1. **AUDIT COMMITTEE REPORT FOR THE FIRST QUARTER ENDED  
30 SEPTEMBER 2023 (11/1/3)**

(Page 1)

The Chairperson of the Audit Committee presented the audit outcome for the period ended 30 September 2023. In his opening remarks, he congratulated the Municipality for obtaining an unqualified audit report, with its entities obtaining clean audit, and pointing out that this was as a result of collective efforts by both the political and the administrative leadership of the Municipality. The Chairperson then presented the findings as recorded from page 3 of the Audit Committee Report circulated separately. Recorded below is just a synopsis of the findings:

- (i) Inadequate internal controls and Standard Operating Procedure to guide the operations in a structured manner under Information and Communication Technology
- (ii) Inability of the management to meet set deadline for the Oracle CX, Customer Relations Management project
- (iii) The Municipality still not compliant with the Protection of Personal Information (POPI) Act
- (iv) Ineffective management of employment contracts resulting in certain employees working and remunerated while their contracts have already expired. Others being engaged without signing a formal contract
- (v) Lack of coordination in relation to the supply chain management contracts awards and thus imposing financial risk as some of the projects are funded through loan and grant funding.
- (vi) No dedicated Department to focus on implementing the Non-Revenue Water Plan
- (vii) No Strategic Business Plan in place to guide operations of the Engineering Unit, and with the Unit recording high vacancy rate of 59% for Architecture; Electrical; Asset & Facilities Management Department

- (viii) No Strategic Business Plan in place in Water & Sanitation Unit, with the Unit also recording high vacancy rate of 52%. Shortage of tools of trade such as vehicles also hindering the performance of the Unit
- (ix) No Strategic Business Plan in place in the Cleansing and Solid Waste Unit and the human resources capacity of the division lacking by 29% of the current approved structure.

The Committee welcomed a comprehensive report by the Chairperson, and also received Management responses on plans implemented or to be implemented to clear the findings identified.

During discussions, the Committee raised views as per the points recorded below:

- i) Management was commended for improvement effected to achieve unqualified audit. Furthermore, both entities were commended for achieving clean audit during this quarter.
- ii) Whilst acknowledging the slight improvement in Non-Revenue Water, However, attention was drawn to the significance of addressing water leaks throughout the Municipality.
- iii) Reservations were raised on the poor attendance of Senior Officials at the DCM level at the Audit Committee. That for the Committee to achieve accountability and proper responses for informed decision, it was crucial for Senior Management to attend the meetings.
- iv) Furthermore, the Committee expressed dissatisfaction with the slow progress for the Municipality to be POPIA compliant. That further delays could subject the Municipality to fines.
- v) Reservations were further extended on the existing challenges of the Supply Chain Management (SCM) processes which constantly hinders service delivery. That solutions should be explored further to find a lasting solution.
- vi) Management was encouraged to work on these findings to find lasting solutions and that political interventions will be given where required.
- vii) The Committee reiterated the importance of rezoning the Inkosi Albert Luthuli International Convention Centre (ICC) precinct to best complement its operations and to maintain its international standard. That support should also be given to the Durban Marine Theme Park to ensure that it thrive in its operations for both entities to continue achieving clean audit.

The issue of Management representation in the Audit Committee was discussed, and the City Manager confirmed standing arrangement for the Executive Manager in his office to serve as a permanent representative in the Audit Committee while he pursues other overwhelming responsibilities. The Office of the City Manager to also ensure representation of Deputy City Managers in the Audit Committee.

With the Committee having noted the Audit and Risk Committee findings; as well as commitments made by the Management to continue attending to these issues,

COMMITTEE RECOMMENDS:

That the Audit Committee Report for the first quarter of the 2023/2024 from 01 July to 30 September 2023, submitted in terms of Section 166 (1) of the Local Government: Municipal Finance Management Act No. 56 of 2003 and Section 14(2)(a) of the Local Government Municipal Planning & Performance Management Regulations, to advise Council of the activities of the Audit Committee and the results of its quarterly reviews of the systems of internal financial control; internal audit; risk management processes; financial reporting; performance management; governance; compliance with laws and regulations; and any other issues referred by the Municipality or its Entities; be noted, as well as the Management responses related thereto.

**DEFERRED, to a Special Meeting.**

2. REQUEST TO APPROVE APPOINTMENT OF THREE DIRECTORS TO SERVE ON THE BOARD OF INKOSI ALBERT LUTHULI INTERNATIONAL CONVENTION CENTRE (4/3/2)

(Page 29)

With effect from 11 October 2023, three (03) Director posts became vacant when two (02) Directors completed their second term as Directors, whilst the other one (01) resigned from the Board of the Inkosi Albert Luthuli International Convention Centre. It should be noted that for the Board to be fully function, it requires a complement of nine (09) Members.

Currently, the Board has six (06) Members hence the submission to seek authority to appoint three (03) Directors to serve with effect from 01 February 2024 to 31 January 2027. This is in line with the eThekweni Municipality Policy and Process for the Appointment of Directors of Boards of Municipal entities which requires Members to serve at least a minimum of three (03) years with an option to renew for another three (03) years based on performance.

Confirmation was given that due processes have been followed to secure incumbents in possession of requisite skills and competencies to fill the vacancies created in the ICC Board. This culminated in the selection of three (03) incumbents as follows:

- **Ms K.B.L Kunene**  
She is in possession of a Bachelor of Science in Property Development and her notable experience include being the Chairpersons of The Playhouse Company; Risk & Performance Committee for the Nkandla Municipality; and Board of the KwaZulu-Natal Museum.
- **Mr. D.L Ngema**  
He is in possession of a Bachelor of Arts. His notable work include being the Deputy Chairperson of the Playhouse Company and a Council Member of the Nelson Mandela Museum.
- **Dr. S.K Mpungose**  
He is in possession of PhD in Economics and has served as a Board Member of the Trade & Investment KwaZulu-Natal and further served as Economist on National Economic Development and Labour Council (NEDLAC).

In line with the competencies outlined in the advertisement for the nominations, the recommended Members would complement the Board as follows:

No	Name	End of Term	Competencies
1	Ms K.B.L Kunene	31 January 2027	Built Environment
2	Mr. D.L Ngema	31 January 2027	Entertainment; Environmental; Social and Corporate Governance
3	Dr. S.K Mpungose	31 January 2027	Monitoring and Evaluation

The DA abstained at this stage to interrogate the matter further and subsequently make an informed decision at the Council meeting. With the other Parties being in support,

**COMMITTEE RECOMMENDS:**

That Council approves the appointment of Ms K.B.L. Kunene, Mr D.L Ngema and Dr. S.K. Mpungose, who are in possession of requisite qualifications and competencies to serve as Non-Executive Directors of Inkosi Albert Luthuli International Convention Centre, trading as Durban International Convention Centre, with effect from 01 February 2024 to 31 January 2027.

**Speaking on the matter, the DA expressed support of the recommendations, however, submitted that the Municipality should guard against the appointment of personnel without firstly conducting qualification verification exercise.**

**On the other hand, the IFP abstained on the matter citing that changes in the Board of Inkosi Albert Luthuli International Convention Centre should be effected once the allegation of irregularities pertaining to the payment of the venue costs for the ANC women's league conference have been concluded. This being done to achieve accountability where applicable.**

**Also referring to the pending case of irregularity, the ActionSA felt it was premature to finalise the appointment of Directors and therefore abstained on this matter.**

**Speaking on the matter, the APF drew attention to operational efficiency by the ICC and receipt of international awards as testimony to that. Therefore, supported the recommendations to appoint the Board to ensure accountability. Meanwhile the ATM registered its support to the recommendations.**

**In concluding the discussion, the ANC supported the recommendation citing the ICC is crucial as it contribute to the national and local economic growth. Further highlighting that in December 2023, the ICC was conferred with an award as the Africa's Leading Meeting and Conference Centre and has also received a clean audit outcome for 2022/2023 financial year. This being for the 9<sup>th</sup> time that the Entity had produced credible financial statements. In this regard, they emphasised that the appointment of the Directors is critical to ensure the success of the Entity and that the process to fill the vacant positions was initially presented before the Executive Committee and Council.**

**As some members were not in support of the recommendations, the matter was put to the vote. With 194 Councillors present, 155 Councillors (ANC - 86, DA- 54 , ABC – 02; ACC - 01, AIC- 02; ACDP – 01; DLC – 01; ADEC – 00; APF – 01; ATM - 01; ALJAMAH – 00; JEP -00; KZNI – 01, MF – 01, MOSA- 01, NFP - 01; PFP – 01, TA - 00 and PRM – 01) voted in favour of the recommendations and 24 Councillors (EFF – 20; and Action SA -04) voted against the matter. 15 Councillors (IFP- 13, UIM – 01 and VF Plus – 01) abstained on the matter.**

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

3. APPROVAL OF RISK APPETITE AND TOLERANCE POLICY (2/10/1/1/8)

(Page 32)

In line with Section 62(1)(c) (i) and Section 95 (c) (i) of the Local Government: Municipal Finance Management Act No 56 of 2003, the eThekweni Municipality has developed the Risk Appetite and Tolerance Policy to ensure that the Municipality and its entities establish effective and efficient risk management processes. The purpose of the policy is to indicate how much risk the Municipality can take or reject for each category of risk.

The benefits of developing the Risk Appetite and Tolerance Levels are highlighted as follows:

- The Risk Appetite and Tolerance levels establishes acceptable parameters to drive risk taking throughout the Municipality;
- It provides a structure for monitoring the level of risks to be taken or accepted at strategic or operational levels in order to achieve desired objectives;
- Knowing the defined risk appetite and tolerance helps Management and the Oversight Structures to make informed decisions;
- It assists the Municipality to make decision based on what has been determined to be acceptable risk levels; and
- It improves focus on monitoring risks that require attention as they may be outside of determined acceptable levels, therefore detrimental to achievement of objectives.

With the Committee being in support,

**COMMITTEE RECOMMENDS:**

That Council approves the Risk Appetite and Tolerance Policy established in line with Section 62(1)(c) (i) and Section 95 (c) (i) of the Local Government: Municipal Finance Management Act No. 56 of 2003 to ensure effective and efficient risk management process.

**DEFERRED, to a Special Meeting.**

4. REQUEST TO APPROVE UNBUNDLING OF THE COMMUNITY INFRASTRUCTURE PROGRAM IN THE 2023/2024 FINANCIAL YEAR. (7/1/2/2)

(Page 46)

It will be recalled that on 31 May 2023, the Municipal Council approved the 2023/2024 Medium Term Revenue Expenditure Framework (MTREF) in accordance with Section 24(1) of the Local Government: Municipal Finance Management Act No. 56 of 2003. At that stage, the Community Infrastructure Project (CIP) allocation was approved as a consolidated capital project pending receipt of projects listing through Councillor submission, and which were not yet finalized at the time of budget approval.

Councillors have since submitted relevant projects listing hence the submission for authority to unbundle the CIP allocation. A total amount of R333 000 000.00 (Three Hundred and Thirty-Three Million Rand) will be shared amongst the one hundred and eleven (111) Wards under the CIP budget.

With all Members being in support,

**COMMITTEE RECOMMENDS:**

That authority be granted to unbundle blocksum in the amount of R333 000 000.00 (Three Hundred and Thirty-Three Million Rand) for allocations to individual Wards in accordance with submissions from the Ward Councillors to pursue Community Infrastructure Program (CIP) within the 2023/2024 Medium Term Revenue Expenditure Framework (MTREF).

**Financial Implications**

<b>ESTIMATES FOR 23/24 Financial Year</b>	
ODCM: HSET P&Gs	59 940 000.00
ETHEKWINI TRANSPORT AUTHORITY	17 986 000.00
ETHEKWINI WATER AND SANITATION	51 885 300.00
HUMAN SETTLEMENTS	48 685 700.00
PARKS, RECREATION AND CULTURE	78 174 000.00
ROADS PROVISION	76 329 000.00
CIP BUDGET FOR 23/24 FINANCIAL YEAR	333 000 000.00

<b>CIP CLUSTERS</b>	<b>BUDGET PER CLUSTER</b>
ODCM: HSET P&GS + PSPs	59 940 000.00
HSET CLUSTER	143 000 700.00
TRADING SERVICES CLUSTER	51 885 300.00
COMMUNITY EMERGENCY CLUSTER	78 174 000.00
TOTAL	333 000 000.00

**DEFERRED, to a Special Meeting.**

5. REQUEST TO APPROVE IN PRINCIPLE THE 2024/2025 DRAFT ETHEKWINI MUNICIPALITY PROPERTY RATES POLICY (7/2/P)

(Page 49)

Authority is sought for an in-principle approval of the 2024/2025 Draft eThekweni Municipality Property Rates Policy in order for the Policy to be made public for comments in terms of Section 5(2) of the Local Government: Municipal Property Rates Act No. 6 of 2004 (MPRA) and thereafter to report back to Council. Section 5 (1) of the MPRA prescribes that the Policy must be reviewed annually and amended if necessary.

Therefore, the existing Policy has been reviewed and the following amendments are proposed to strengthen effective implementation of the Policy, revenue collection as well as to align with case law and legislation: -

**Proposed Amendments to the Policy**

- (a) **New and/or amended text** are reflected in **bold**;
- (b) Words which appear in ***bold italics and between parentheses [ ]*** indicate explanation for noting.

**A. Definitions and Acronyms**

Due to the review of the Policy, the following amendment to the Definitions and Acronyms section in the Policy, is envisaged:

<u>Current 2023/2024 -</u>	<u>Proposed Revision for 2024/2025</u>
<p><b>"Business and Commercial property"</b> means, unless a definition in the Act or a provision in this Policy, indicates otherwise-</p> <p>a) Property used for the activity of buying but excludes a warehouse and distribution use;</p>	<p><b>"Business and Commercial property"</b> means, unless a definition in the Act or a provision in this Policy, indicates otherwise-</p> <p>a) Property used for the activity of buying... but excludes a warehouse and distribution <b>centre</b>;</p> <p><b>[Rationale for change: minor changes to correct grammar and reflect the place not the use]</b></p>

**B. Institutional Requirements**

Due to a review of the Policy, the following amendments to the Policy, are envisaged:

<u>Current 2023/2024</u>	<u>Proposed Revision for 2024/2025</u>
The effective date of this Policy will be on 1 July 2023	The effective date of this Policy will be 01 <b>July 2024</b> <b>[Rationale for change: self-explanatory]</b>

**C. Clause 5. Categories of Property**

Due to the review of the Policy, the following amendments to clause 5 are envisaged:

<u>Current 2023/2024</u>	<u>Proposed Revision for 2024/2025</u>
<b>5.9</b> In order for the Municipal Valuer to categorise properties as a PBO property <i>and apply the MPRRR</i> , an application for a change in the property rating category	<b>5.9</b> In order for the Municipal Valuer to categorise properties as a PBO property, an application for a change in the property rating category must be



<u>Current 2023/2024</u>	<u>Proposed Revision for 2024/2025</u>
must be made, in the prescribed form, to the Municipal Valuer.	made, in the prescribed form, to the Municipal Valuer.
(i) The registered owner must be a PBO;	<b>[Rationale for change: To align the clause with the functions of the Municipal Valuer]</b>
iii) Where a property of a PBO is used by a person other than the registered owner...	(i) The property must be owned by and used as a PBO;
v) Both the registered owner and, where applicable, the user/lessee that is a PBO.....	<b>[Rationale for change: To bring clarity to the clause to avoid any ambiguity]</b> <b>Deleted</b>
vi) The registered owner must provide a copy of the title deeds of the property and in the case of a PBO user/lessee of the property, a copy of the lease agreement.	iv) The registered owner that is a PBO must provide copies of the organisation's memorandum of incorporation/founding documents... v) The registered owner must provide a copy of the title deeds of the property <b>[Rationale for change: To align the clauses within the definition of the owner in the MPRA]</b>

**D. Clause 6. Categories of Owners of Property**

Due to the review of the Policy, the following amendments to clause 6 are envisaged:

<u>Current 2023/2024</u>	<u>Proposed Revision for 2024/2025</u>
6.1 (p) Green Certified Building as contemplated in Clause 7.14;	<b>Deleted</b>
	<b>[Rationale for change: Removed pending the finalisation and approval of the Green Building Incentives Policy]</b>

**E. Clause 7. Exemptions, Rebates and Reductions ("RELIEF")**

Due to the review of the Policy, the following amendments are envisaged:

<u>Current 2023/2024</u>	<u>Proposed Revision for 2024/2025</u>
New clause	<p>7.12.4 In addition to a reduction prescribed in Clause 7.12.1, the Council may on application, grant a rebate to vacant landowners, who hold an approved building plan from the Development Planning and Management Unit.</p> <p>7.12.5 The purpose of this rebate is to provide relief to vacant landowners and encourage the development and utilization of vacant land within the municipality.</p> <p>7.12.6 All applications for the rebate must be made to the CFO and shall be a percentage of the property rates paid during the period of vacancy determined by the Council and may only be granted once per property.</p> <p>7.12.7 The CFO may also consider other factors such as the economic and social benefits of the proposed development, the impact on the community, and environmental considerations when deciding whether to grant the rebate.</p> <p>7.12.8 The Council reserves the right to refuse the rebate if the proposed development does not meet its criteria or if the property owner fails to comply with any other conditions of approval.</p>

<u>Current 2023/2024</u>	<u>Proposed Revision for 2024/2025</u>
	<p><b>Qualifying criteria</b></p> <ul style="list-style-type: none"> <li>i. The application must be in a prescribed application form to the CFO;</li> <li>ii. The application must be accompanied with an approved building plan and no application will be considered without an approved building plan;</li> <li>iii. The approved building plan must only be for a construction of a residential or commercial and industrial property.</li> <li>iv. The vacant land owned by the Organ of the State and government departments will be excluded from this rebate;</li> <li>v. The rebate application for the approved building plan guard house, boundary walls or similar structures, will not be considered.</li> </ul> <p><b>[Rationale for change: The new clause intends to provide much needed limited relief to property owners of vacant land, who have secured the approval of the building plan and in a process of building]</b></p>

**F. Clause 7.13 Nature Reserves / Conservation Areas**

Due to the review of the Policy, the following amendments to Clause 7.13, are envisaged:

<u>Current 2023/2024</u>	<u>Proposed Revision for 2024/2025</u>
<b>Clause re-instated</b>	<p><b>7.13.2.8</b> Where the land is not zoned for conservation purposes and an environmental servitude has not been registered in favour of the Municipality, an owner may be granted a reduction or rebate, provided the owner has agreed to the Municipality rezoning the affected land to protect the environment.</p> <p><b>7.13.2.9</b> The owner of a Nature Reserve / Conservation area cannot receive a reduction or rebate on the Nature Reserve/Conservation area component of the property in addition to the rate benefits in terms of clause 7.14.3.4 above</p> <p><b>[Rationale for change: Clause inclusion is aimed at providing incentives to property owners to look after environmental sensitive portion of their property and the clause outlines the plan for doing so.]</b></p>

**G. Clause 7.14 Green Certified Buildings**

Due to the review of the Policy, the following amendments to Clause 7.14, are envisaged:

<u>Current 2023/2024</u>	<u>Proposed Revision for 2024/2025</u>
7.14.1 An owner of a rateable property on which an energy efficient building...	<b>[Deleted]</b>

<u>Current 2023/2024</u>	<u>Proposed Revision for 2024/2025</u>
7.14.2 The rebate or reduction may be for a defined period or.....	[Deleted]
7.14.3 No reduction or relief will be granted retrospectively.	[Deleted]
7.14.4 Any rebate or reduction will lapse should any environmental....	[Deleted]
	<b>[Rationale for change: Removed pending the finalisation and approval of the Green Building Incentives Policy]</b>

**H. Clause 9.4. Financial Control**

Due to the review of the Policy, the following amendments to Clause 9.4, are envisaged:

<u>Current 2023/2024</u>	<u>Proposed Revision for 2024/2025</u>
<b>9.4.11</b> If the collection of rates of a SRA falls below 95% or the CFO, after an investigation, determines that a SRA is not financially viable, the Municipality may dissolve the SRA.	<b>9.4.11</b> If the CFO, after an investigation, determines that a SRA is not financially viable, the Municipality may dissolve the SRA.  <b>[Rationale for change: To afford SRA who cannot reach a stipulated collection rate, an opportunity to recover on its collection of revenue without stringent requirement. Currently, the Municipality only pay what is collected for SRA]</b>

**I. Clause 11. Unauthorised or illegal development or use and abandoned property or building**

Due to the review of the Policy, the following amendments are envisaged:

<u>Current 2022/2023</u>	<u>Proposed Revision for 2023/2024</u>
<b>11.2</b> Where a property or the buildings on a property have, in the opinion of the CFO, been abandoned and have become or are becoming derelict or unusable in its present condition for the purpose for which it was intended, the CFO may request the Municipal Valuer.....	<b>11.2</b> Where a property or the buildings on a property have, in the opinion of the <b>line department</b> , been abandoned and have become or are becoming derelict or unusable in its present condition for the purpose for which it was intended, <b>such line department</b> may request the Municipal Valuer..... <b>[Rationale for change: To correctly align the clause with the current processes which are managed by line departments]</b>
<b>11.4 (c)</b> copies of summonses and statements from relevant in support of criminal proceedings;	<b>11.4 (c)</b> copies of summonses and statements from relevant <b>line department</b> in support of criminal proceedings; <b>[Rationale for change: filling in the words erroneously omitted]</b>

**J. Clause 18: Supplementary Valuations**

Due to the review of the Policy, the following amendment is envisaged to Clause 18:

<b>Current 2023/2024</b>	<b>Proposed Revision for 2024/2025</b>
<p><b>18.3</b> If it is not possible to determine the exact date on which the change of category occurred, the CFO may .....</p> <p><b>18.3.5</b> any other factors which the CFO deems relevant.</p> <p><b>18.4</b> Where the CFO has determined that the date on which the change of category referred to in Section 78 (1)(g) of the Act</p>	<p><b>18.3</b> If it is not possible to determine the exact date on which the change of category occurred, the <b>Municipal Valuer</b> may...</p> <p><b>18.3.5</b> any other factors which the <b>Municipal Valuer</b> deems relevant.</p> <p><b>18.4</b> Where the <b>Municipal Valuer</b> has determined that the date on which the change of category referred to in Section 78 (1)(g) of the Act</p> <p><b>[Rationale for change: Aligning clauses to the functions of the Municipal Valuer]</b></p>

**K. Clause 20: Policy Evaluation and Review**

Due to the review of the Policy, the following amendment, is envisaged:

<b>Current 2023/2024</b>	<b>Proposed Revision for 2024/2025</b>
<p><b>20.</b> This is the 15<sup>th</sup> review of the original rates policy adopted by the Council in 2008 in compliance with the Act.</p>	<p><b>20.</b> This is the 16<sup>th</sup> review of the original rates policy adopted by the Council in 2008 in compliance with the Act.</p> <p><b>[Rationale for change: Self-explanatory]</b></p>

Accordingly,

**COMMITTEE RECOMMENDS:**

That the proposed amendments to the 2024/2025 Property Rates Policy (Reference: eThekweni Municipality Rates Policy 2024/2025 – Draft 22/11/2023), as contained in the report of the City Manager dated 2023-12-28, be approved in-principle, in order for the Policy to be made public for comments in terms of Section 4 of the Local Government: Municipal Property Rates Act No. 56 of 2004.

**Speaking on the matter, the DA mentioned that amendments of the Property Rates should not be viewed as a tick box exercise, but that ratepayers should be considered as well. To do justification that time should be invested to consider areas of concerns which should then inform amendments proposed to be effected to the policy. The DA referred to various categories of land such unauthorised illegal development, abandoned property or buildings. In this regard, the DA felt that the Municipality should consider people or businesses having properties that add the required value in the area of Municipality in a positive light when setting rates charges, also to consider strict punitive measures for instance unauthorised or illegal development. Meanwhile emphasising the importance of implementing enforcement where applicable. That clauses relating to these categories should be carefully considered to then propose concrete amendments in this regard, also including measures to be put in place for enforcement processes. On the other hand, the Municipality should strengthen its processes for building plans approval to ensure interested parties are supported to clear vacant land.**

**Speaking on the issue of land, the APF supported the idea of expropriation of land without compensation and that this should be enforced, particularly for vacant land which was not being utilised so that the Municipality can further develop the land. That the policy under consideration should be bias towards black economic empowerment.**

**Concluding discussion, the ANC took into consideration that the proposed amendment was to undergo public participation process to give opportunity to all eThekweni stakeholders to submit input in this regard. That this is in compliance with the statutory requirements and also valuing views of the residents. Confirmation was given that amendments will be effected in a responsible manner to create a balance between protecting property owners and prospective developers whilst also implementing punitive measures where applicable.**

**Accordingly, the above recommendations were unanimously, ADOPTED.**

6. MID-YEAR BUDGET AND PERFORMANCE ASSESSMENT REPORT  
AS AT 31 DECEMBER 2023. (7/1/4)

Page 132

Members welcomed the report by the Chief Financial Officer and thereafter queried reasons for the -5% variance in the allocation of the Capital Budget, as well as reasons for exceeding the targeted threshold of 25% whereas there are constant complaints of poor productivity as well as complaints that other Municipal Units are understaffed thus affecting their performance.

During discussion, the Committee was informed that the revenue collection rate being 93% of the targeted 95% has affected the Municipality from achieving its target. However, Management committed to effect necessary improvements in order to achieve targeted threshold throughout the financial year. With regards to employee related cost, it was advised that the Municipality is still in compliance with the National Treasury threshold of 40% .

On this basis,

**COMMITTEE RECOMMENDS:**

- 6.1 That the Budget Statement report for the month ended 2023-12-31 and the supporting documents, submitted by the City Manager as per his report dated 2024-01-12, in compliance with Section 71 of the Municipal Finance Management Act 56 of 2003 and in terms of Government Notice 32141 dated 17 April 2009, relating to the “Local Government: Municipal Finance Management Act 2003, the Municipal Budget and Reporting Regulations”, be noted.
- 6.2 That Council notes the Section 52(d) quarterly report on the implementation of the budget and the financial affairs for the Municipality and its Entities.
- 6.3 That Council notes Section 72 mid-year budget and performance of the Local Government: Municipal Finance Management Act No. 56 of 2003.
- 6.4 That in accordance with Section 28 of the Municipal Finance Management Act and in compliance with the Regulations 23 of the Municipal Budget and Reporting Regulations, and adjustments budget be prepared and submitted to Council.

6.5

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 2023 as detailed on section 10 in the report of the City Manager dated 2024-01-12.

Commenting on the matter, the DA highlighted what they viewed as worrying areas negatively affecting the financial performance of the Municipality. This including the outstanding loans of R9,5 billion as at December 2023, 56 % water losses, unread meters for more than a year, with estimated bills being issued, thus resulting in electricity and further water losses, Municipal debtors sitting at R28 million, 86,9 % of collection rate, increased expenditure on Metro Police overtime etc. They further cited loss of expected income from Trading Services Unit; the 3,5% on infrastructure maintenance expenditure while the norm is 8%; lower expenditure on some of the grants, overgrown verges, and unresolved sewer spillages; backlog in processing of Rates Clearance Certificates.

Also commenting on the report, the IFP mentioned that National Treasury distribute funds based on the expenditure patterns of the Municipality. They mentioned that there were clear visible signs of underperformance, citing that the service delivery was low. It being emphasized that performance had to be measured against the situation on the ground.

Meanwhile, the ATM whilst noting the report emphasized that the budget is meant to assist the residents of eThekweni.

The ActionSA then reported that the Municipality had only spent R1,7 billion on capital expenditure against the annual capital budget of R8,1 billion which relates to the underspending of 41%.

*At this stage of the proceedings, time being 17h00, all EFF Councillors requested to be excused from the meeting, and they accordingly left.*

Thereafter, the ANC indicated that unfortunately the City is experiencing economic difficulties similar to those engulfing the entire country. This being informed in certain instances by rising inflation, weakening exchange rates etc, therefore some residents are slowly finding it difficult to meet their commitments and monthly obligations. However, it was reported that the Municipality is still financially stable and viable. Further, that this was underpinned by the R7,7 billion on investments, with 37 (thirty-seven) days cash on hand excluding grants, collection rate of 93,5 % as at the end of December 2023. Emphasis being made that the Municipality's financial management strategies were effective; reference being made to debt relief programmes. In terms of water losses, it was mentioned that strategies on what constitute non-water revenue was being developed, where water losses are to be quantified, since water is also supplied through water tankers, standpipes in rural areas and informal settlements etc. On operating expenditure, it was highlighted that suppliers had to be paid timeously, cash collection rate to be further improved and that the National Treasury borrowing ratio was being maintained.

Accordingly, the above recommendations were, **NOTED.**

7. UPDATE REPORT ON INTERVENTIONS TAKEN TO RESPOND TO DAMAGES  
CAUSED BY DISRUPTIVE HEAVY RAINFALL OF JANUARY 2024 (29/2/2024)

(L110)

During discussions, the Committee raised views as per the points recorded below:

- The Committee welcomed comprehensive report and appreciated efforts made by the Municipal departments to provide immediate responses during the recent heavy rains.
- Condolences were extended to families who lost their loved ones during this period.
- With harsh weather conditions becoming common in eThekweni, members emphasized the need to build better to ensure infrastructure is able to withstand heavy rains.
- Attention was drawn to the need to implement the City's Climate Change Strategy to enable effective mitigating measures from the Municipal departments during disasters.
- A need to install trash traps on stormwater drains was emphasized to prevent waste from infiltrating the drainage systems to protect rivers and streams.
- Attention was further drawn to the need to accord Municipal employees with similar benefits as those provided to regular citizens during disaster crisis. That some employees are unable to afford insurance for their properties.
- With regards to recent water outages in the City, concerns were expressed regarding poor coordination of water tankers. Mention being made that people were left without any solution due to non-availability of water tankers.
- Other Government Spheres through District Development Model (DDM) were called to play their key role in providing relevant resources for effective response during disasters rather than the Municipality being required to reprioritize its budget.
- With water tankers being considered critical during emergencies and eThekweni Municipality having insufficient capacity, the City Manager and the Chief Financial Officer (CFO) were encouraged to source funding to finances procurement of additional water tankers during this financial year.
- Furthermore, the City Manager and the CFO were encouraged to establish a turnaround strategy to address existing bottlenecks within the Supply Chain Management (SCM) processes resulting to delays to conclude projects at given timelines.
- For effective interventions during disaster crisis, the Municipality was encouraged to develop a mechanism at the Ward level to identify people willing to assist their respective communities when faced with disasters to achieve immediate responses.

- Attention was drawn to the need for relevant structures to review some of the curriculum, particularly in the Engineering Sector for designs to be responsive to current climatic conditions.
- That the Executive Committee will convene a 2-day workshop for all Municipal departments to present realistic approach and implementation of the Municipal Climate Change Action Plan.

That uMngeni-uThukela Water will be invited to provide Councillors with necessary information to understand their challenges as their operations affect the communities of eThekweni Municipality which affects the image of the City.

Thereafter, Management noted comments made by the Committee, particularly on building better, taking into consideration current climatic conditions being experienced. That in view of water tankers status, One Hundred and Fifty-Seven (157) Municipal-owned and One Hundred and Five (105) hired active water tankers the Municipality should ensure effective deployment of water tankers.

Accordingly,

COMMITTEE RECOMMENDS:

- 7.1 That Council notes comprehensive update report representing various eThekweni Municipal Units and their flood disaster recovery cost incurred after disruptive rainfall which occurred in the eThekweni area on 13 and 16 January 2024.
- 7.2 That Council notes that following preliminary assessments on the overall damages, a total of R1 408 451 583.00 (One Billion Four Hundred and Eight Million Four Hundred and Fifty-One Thousand Five Hundred and Eighty-Three Rand), excluding VAT, is required to implement necessary recovery plans.
- 7.3 That Council notes that requests for assistance with burials have been received by the Office of the Mayor to assist floods victims.
- 7.4 That Council supports the application by the eThekweni Human Settlements Unit to the National Department of Human Settlements to fund damages listed in the table below at an amount of R282 360 000.00 (Two Hundred and Eighty-Two Million Three Hundred and Sixty Thousand Rand) of the preliminary costs submitted:

No	Items	Number of Units affected	Cost per Unit	Total Cost estimates
1	BNG	200	R 180 000	R36 000 000.00
2	Informal Settlements Shack	3600	R 12 000	R43 200 000.00
3	Hostels	178	R 220 000	R39 160 000.00
4	R293	655	R 190 000	R124 450 000.00
5	Council flats (retaining blocks)	48	R 350 000	R16 800 000.00
6	Retaining Walls	350	R 65 000	R22 750 000.00
TOTAL				R282 360 000.00



- 7.5 That Council support the request for budget reprioritization to fund the emergency repairs being undertaken by various departments to respond to the flood damages.
- 7.6 That Council supports Disaster Management for the submission of the preliminary report to the Provincial Disaster Management Centre for inclusion to the Provincial report being submitted to National Disaster Management Center for approval of a disaster declaration following the announcement of a classification in line with the Disaster Management Act 57 of 2002.
- 7.7 That Council notes that a detailed report will be submitted and comprising updated cost implications, relief provision, burial assistance provided, and emergency repairs undertaken.

**Financial Implications**

1. Human Settlements

No	Items	Number of Units affected	Cost per Unit	Total Cost estimates
1	BNG	200	R 180 000	R36 000 000.00
2	Informal Settlements Shack	3600	R 12 000	R43 200 000.00
3	Hostels	178	R 220 000	R39 160 000.00
4	R293	655	R 190 000	R124 450 000.00
5	Council flats (retaining blocks)	48	R 350 000	R16 800 000.00
6	Retaining Walls	350	R 65 000	R22 750 000.00
TOTAL				R282 360 000.00

2. Engineering

Item No.	Department	Cost Estimate
1	Coastal Stormwater and Catchment Management (Drainage Systems)	R660 062 000
2	Roads Provision (Bridges & Roads)	R129 330 000
3	Roads & Stormwater Maintenance (RSWM0 gravel roads and roads network damages)	R209 760 583
	Total	R999 152 583

3. Water and Sanitation Department

Item No	Description	Cost Estimate
1	Water operations: Damage to Water Works and Main Trunk lines	R11 800 000
2	Sanitation: Damage to wastewater treatment works	R107 000 000
	Total	R118 800 000

4. Parks, Recreation and Culture

Item No	Description	Cost Estimate
1	Damage to public facilities, workshops and equipment	R7 139 000
	Total	R7 139 000

5. Health Unit

Item No	Description	Cost Estimate
1	Primary Health Clinic damages to buildings	R1 000 000
	Total	R1 000 000

**Integrated Cost Implications**

Department	Estimate Costs
Engineering	R 999 152 583.00
Human Settlements	R 282 360 000.00
Health	R 1 000 000.00
Parks Recreation & Culture	R 7 139 000.00
EWS- Water and Sanitation	R 118 800 000.00
Total	

**DEFERRED, to a Special Meeting.**

8. **RATIFICATION OF APPROVAL MADE IN TERMS OF RULE 28 (1) (b) OF THE RULES OF ORDER BYLAW 2014, AS AMENDED, WITH RESPECT TO HOSTING THE NATIONS CONNECT ONE FOOTBALL TOURNAMENT (33/2)**

(L111)

The KwaZulu-Natal Provincial Government requested the eThekweni Municipality to support and host the National Connect One Football Tournament involving Orlando Pirates; Kaizer Chiefs; and two Teams from India, Mohammedan Sporting Club in Kolkata and Sreenidhi Deccan FC of Hyderabad. The tournament was perceived to be a powerful catalyst for economic growth; social cohesion and promotion of tourism in the KZN Province. The event was considered to create a lasting positive impact on the Province's economic; cultural and sporting landscape. The event was scheduled for 27 January 2024 in Moses Mabhida Stadium, but has since been postponed to June 2024.

With the Committee noting the postponement of the tournament from January to June 2024, some Members queried the possibility to withdraw the item to allow Management to prepare a comprehensive report for approval by Council. However, in view that the agreement has already been signed, a plea was made to continue with the processes that have already commenced to prepare for the tournament.

Accordingly,

**COMMITTEE RECOMMENDS:**

That the action of the City Manager, in consultation with His Worship the Mayor, Councillor TM Kaunda, in his capacity as the Mayor and Chairperson of the Executive Committee, in approving as a matter of urgency in terms of Rule 28(1)(b) of the Rules of Order By-law 2014, as amended, an allocation of an amount of R3 330 000.00 (Three Million Three Hundred and Thirty Thousand Rand), to support and host the Nations Connect One Football Tournament involving Orlando Pirates, Kaizer Chiefs and two Indian Super League Teams, namely, the Mohammedan Sporting Club in Kolkata and Sreenidhi Deccan FC of Hyderabad, scheduled to take place in Moses Mabhida Stadium on 27 January 2024 be ratified, it being recorded that the date has since been changed to June 2024.

**Financial Implications:**

Item	Description	Amount
Moses Mabhida Stadium	Match Venue	R750 000.00
Match Related Costs	Security; Cleaning; Medical Services; Venue Set Up	R200 000.00

Item	Description	Amount
Mayoral Reception	Hosting Officials, excluding Players	R200 000.00
Outdoor Profiling	City Address; Posters; Street Pole Banners	R180 000.00
Activations	Social Media Activations and Airport Activation	R200 000.00
<b>Total</b>		<b>R3 330 000.00</b>

**DEFERRED, to a Special Meeting.**

9. RATIFICATION OF APPROVAL MADE IN TERMS OF RULES 28 (1) (b) OF THE RULES OF ORDER BY-LAW 2014, AS AMENDED, WITH RESPECT TO THE CIVIC FUNERAL ACCORDED THE LATE DR MBONGENI NGEMA, IN LINE WITH THE CIVIC FUNERAL POLICY (13/6)

(L112)

South Africa, and in particular, the City of eThekweni lost a renowned playwright, Dr Mbongeni Ngema, best known for producing Woza Albert and Sarafina. He was also one of the vocal arrangers for the Disney Film “The Lion King”

Dr Ngema’s work reflected the spirit of black South Africans under the apartheid regime and his work was recognized both locally and internationally. He played a prominent role in the South African creative arts industry and South African political history. Given his significant contribution, it was agreed that Ngema was eligible to be honoured with a Civic Funeral.

As Council was in recess during the tragic loss of Dr Ngema who was then laid to rest on 05 January 2024, the City Manager, in consultation with His Worship the Mayor, approved the allocation of an amount of R200 000.00 (Two Hundred Thousand Rand) to contribute towards the burial of Dr Ngema, in line with the requirements of the Civic Funeral Policy.

Accordingly, the decision taken is then submitted to the Council for ratification purposes.

With Members being in support,

**COMMITTEE RECOMMENDS:**

That the action of the City Manager, in consultation with His Worship the Mayor, Councillor TM Kaunda, in his capacity as the Mayor and Chairperson of the Executive Committee, in approving as a matter of urgency, in terms of Rule 28(1)(b) of the Rules of Order By-law 2014, as amended, the allocation of an amount of R200 000.00 (Two Hundred Thousand Rand), to contribute towards the burial costs of the late South African playwright, lyricist, composer, director, choreographer and theatre producer, Dr Mbongeni Ngema, in line with the Civic Funeral Policy, be ratified.

**Speaking on the matter, the IFP extended heartfelt condolences to the family of the late Dr Mbongeni Ngema. The late Ngema was praised for his work in the South African creative arts industry and South African political history, further contributing to the local economic growth.**

The ANC also shared similar sentiments and further extended gratitude to the City of eThekweni for providing financial support to enable a dignified send-off for the legendary Dr Ngema. They further emphasised that plans had to be developed by the Community Services Committee so that the history of the legends that had passed on, can be preserved and not to be forgotten.

Thereafter, the above recommendations were, **RATIFIED.**

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(The Deputy Mayor, Councillor Z Myeni tabled the Second Report of the Executive Committee).

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## SECOND REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2024-01-29)

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

ABSENT : Executive Committee Members MS Nkosi (Personal Commitments).

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1. REQUEST FOR APPROVAL TO EXTEND TERM OF OFFICE OF THE AUDIT & RISK COMMITTEE MEMBERS AND APPROVAL OF UPDATED REMUNERATION FRAMEWORK FOR OVERSIGHT COMMITTEES (4/3/2 & 4/5/1/1)

(Page 1)

The eThekweni Municipality has established Audit and Risk Committee (ARC) in line with the requirements of Section 166 of the Local Government: Municipal Finance Management Act No. 56 of 2003 (MFMA). The Audit Committee serves as an independent advisory body to the Council, Political Office bearers, Accounting Officer, Management, Municipal Entities and staff on issues relating to the internal control environment.

In terms of the Audit Charter, Members should be selected from different areas of expertise to respond to varied needs of the Municipality, and they are to serve for a 3-year period, which is renewable for another 3 years if the Municipality wishes to extend the term of office, but the duration could not proceed beyond a six-year period.

Currently, the six (06) serving Members have completed their first 3-year period, and authority is sought to extend their term of office for another 3-years thereby achieving business continuity. The Members referred to are listed in the table below, including their qualifications and areas of expertise.

No.	Members	Qualifications	Area of Expertise	Appointed	End of Term
1	Mr. Siboniso Shabalala	Bachelor of Commerce: Accounting Post Graduate Diploma in Accounting	Financial Management	01/07/2021	30/06/2024
2	Ms. Precious Sibiya	Chartered Accountants (SA) Bachelor of Accountancy  Postgraduate Diploma in Accounting	Financial reporting, Financial management, Risk management, Auditing (Internal and External), Compliance management, Supply chain management	01/07/2021	30/06/2024
3	Ms. Adila Chowan	Chartered Accountant Advocate Certified Director LLB Degree) B.ACC, Honours in Accounting Leadership Course	Legal	01/07/2021	30/06/2024
4	Mr. Ashley Latchu	MSc (Masters in Computing) Honors Degree (Computing) BSc Degree (IT Management) Bachelor of Accounting Sciences (Internal Auditing) Diploma in Networking & Engineering	Information Technology Auditing	01/07/2021	30/06/2024
5	Mr. Ayanda Wakaba	Master of Business Management and Administration (MBA) Honours Bachelor of Accounting Sciences Bachelor of Commerce Advanced Diploma in Accounting	Financial Management Auditing	01/07/2021	30/06/2024
6	Mr. Imtiaz Valley	Chartered Accountant (SA). Chartered Management Accountant. Chartered Global Management Accountant Highest degree: Master of Accountancy	Audit and risk management Accounting and finance Strategic leadership Corporate governance	01/07/2021	30/06/2024
7	Dr. Jonty Tshipa	Ph.D. Financial Management Science Master of Finance and Investment (CumLaude). Master of Business Administration Project Management Electrical Engineering	Financial management, Business Management, Risk Management and Engineering, ICT and Compliance Management	01/03/2022	28/02/2025

Based on the requirements of the Charter as quoted above, it is recommended to extend the term of office of the existing six (06) Audit Committee Members, which approach makes business sense in terms of achieving business continuity and saving time and resources to start a new process while the Council is satisfied with the level of service rendered by the current Members. It should be noted that the term of office of the 7<sup>th</sup> member is still active till 2025 and therefore not included in the renewal process.

On the other hand, authority is sought to approve updated Oversight Remuneration Framework as the existing one is due to expire in June 2024. The Framework has since been reviewed to align with the proposed new term of office of the members. The costs implications in this regard is categorised as follows:

Estimated Costs: 2024-25	Estimated Costs: 2025-26	Estimated Costs: 2026-27
R2 207 250.00	R2 486 610.00	R2 660 670.00

The breakdown of costs is contained in the comprehensive framework attached herein.

With the Executive Committee being satisfied with the level of service rendered by the current Audit Committee members, the extension of term of office was unanimously supported, as well as the proposed revised remuneration framework.

Accordingly,

**COMMITTEE RECOMMENDS:**

- 1.1 That Council notes the term of office of six (06) Members of the Audit and Risk Committee is coming to an end in June 2024.
- 1.2 That subject to .1 above, and in a bid to achieve business continuity, Council approves the extension of the term of office of the following six (06) Audit and Risk Committee Members whose term of office expires in June 2024, and the extension to commence another three-year term of office commencing 01 July 2024 and expiring 30 June 2027, it being recorded that the Members in question are still in possession of the required qualifications and competencies to serve on this Committee:
- (i) Mr S Shabalala;
  - (ii) Ms P Sibiya;
  - (iii) Ms A Chowan;
  - (iv) Mr A Latchu;
  - (v) Mr A Wakaba and
  - (vi) Mr I Valley
- 1.3 That Council approves the revised Oversight Remuneration Framework attached herein, and which aligns with the new term of office, to be implemented with effect from 01 July 2024, and which reflects the costs estimates as reflected in the table below:

Description	Estimated Costs (R) 2024/25	Estimated Costs (R) 2025/26	Estimated Costs (R) 2026/27
Total Costs*	2 207 250.00	2 486 610.00	2 660 670.00

*\* Note funding is still requested from the Chief Financial Officer.*

**DEFERRED, to a Special Meeting.**

2. APPROVAL OF PUBLIC PARTICIPATION PROCESS FOR THE ETHEKWINI MUNICIPALITY ANNUAL REPORT 2022/2023 FINANCIAL YEAR. (11/1/1)

(Page 15 & Attachment Circulated electronically)

The draft Annual Report has been prepared to present the performance of the Municipality against its predetermined strategic and operational plans, including budget performance during the implementation stage. The Annual Report preparation and submission is informed by Section 127 of the Local Government: Municipal Finance Management Act No 56 of 2003.

The current submission is aimed at formalizing the commencement of the public participation process for various stakeholders to contribute input into the draft Annual Report prior to the final adoption in May 2024. Accordingly, the draft Annual Report

will serve before various stakeholders including the Council Support Committees; People with Disabilities; Traditional Leaders; Ward Committees; General Public; Business Fraternity; Civil Society and other Community-based Organisations.

Thereafter, the Municipal Public Accounts Committee will review the draft Annual Report to prepare an Oversight Report for consideration by the Municipal Council. The report will incorporate comments and representation received during the public participation process.

In the meantime, it should be noted that whilst the Municipality has been undergoing a recovery phase following the devastating April 2022 floods, the following points represents the achievements notwithstanding the setbacks:

- Obtaining unqualified audit opinion for the 2022/2023 financial year;
- Reopening the Bridge City Mall thus rejuvenating the economic activities of Inanda, Ntuzuma & KwaMashu (INK) and surrounding areas, and thus also creating employment opportunities for people who lost their jobs during the July 2021 civil unrest;
- Reduction in “property rates tariff increase” from 8.9% tabled in March 2023 to a 7.9% increase approved in May 2023;
- Reduction in “sanitation tariff increase” from 11.9% for domestic and 12.9% for business tabled in March 2023 to an increase of 10.9% for domestic and 11.9% for business;
- Reduction in “refuse tariff increase” from 8% tabled in March 2023 to a 6.9% increase approved in May 2023;
- Relocating 8 000 families displaced by the floods to safe-family friendly accommodations; and
- Water supply in eThekweni has been restored to 79.08%.

Further interrogation of the achievements and shortcomings during the financial year under review will be deliberated upon the submission of the final draft Annual Report in May 2024.

In the meantime,

#### COMMITTEE RECOMMENDS:

That Council notes the draft Annual Report prepared and submitted in terms of Section 127 of the Local Government: Municipal Finance Management Act No. 56 of 2003, and approves the commencement of the public participation process to afford stakeholders the opportunity to contribute input prior to the final approval in May 2024.

**NOTED.**

3. DRAFT 2024 CALENDAR OF COUNCIL AND COMMITTEE MEETINGS (3/4/1)

(Page 26)

It was recalled that the Municipal Council at its 11 December 2023 meeting resolved to defer consideration and approval of the draft Calendar of Council and Committee meetings pending the pronouncement of the date of the South Africa's 2024 National and Provincial Elections. This approach being taken in order to effect the necessary amendments to accommodate pre-election activities of the Political Parties that might interfere with other Committee meetings.

In view of the election date not yet communicated whilst the Calendar is also required to direct the activities of the Municipal Council, it was agreed to approve the Calendar in principle subject to the proviso that any latest developments with regard to the election date will be considered at the time of receipt of communication and subsequently the submission of amendments where required.

Approval of the Calendar is of essence to enable Officials to meet reporting timelines and allow scheduling of Support Committee meetings in a manner that enables their reports to serve before the Executive Committee prior to the final decision-making at the Council level.

Therefore, the Calendar of Meetings serves as the Council and Committees' Annual Programme. In drafting the Calendar, analysis of Committee membership has been undertaken to avoid clashes. However, in certain instances clashes are unavoidable but this would be managed accordingly amongst the Chairpersons of Committees.

The Calendar of Meetings also take into account the flow of items from the Committee structures till reaching the final decision-making at the Municipal Council level. Incorporated in the Calendar are also proposed dates of the Wards and the Community meetings, but it should be noted these are just tentative dates to indicate the requirement to convene the meetings on a monthly and quarterly basis. The Ward Councillors would then take responsibility to confirm specific dates with the respective Ward Committees and Community members.

It is understood that from time-to-time certain circumstances will warrant postponement and/or cancellation of meetings. This would be attended to by the respective Chairpersons and decision taken based on justifiable reasons. Timeous submission of Committee Reports is also encouraged to avoid postponing and/or cancelling meetings due to receipt of insufficient reports from line departments.

Attached herein is the Calendar of Meetings for ease of reference. In support of the in-principle approval,

COMMITTEE RECOMMENDS:

- 3.1 That Council approves, in principle the 2024 eThekweni Municipal Calendar of Meetings, to aid forward planning for the Council and its Committees; thereby achieving a smooth flow of the Council's decision-making process, it being recorded that the Calendar will be resubmitted upon the pronouncement of the date of the 2024 General Elections to confirm if there are changes to be effected to some of the dates of Council Committee meetings.



- 3.2 That, in the meantime, the Chairpersons of Committees adhere to the dates contained in the Calendar of Meetings when convening meetings, it being recorded though that the Chairpersons reserve the right to cancel and/or postpone meetings, based on justifiable reasons.
- 3.3 That the Deputy City Managers and the Unit Heads manage the process of timeous submission of Committee Reports to the Office of the City Manager for final signature, before submission to the Secretariat Department for Agenda purposes, and which process will enable meetings to convene as scheduled.

**DEFERRED, to a Special Meeting.**

4. MID-YEAR PERFORMANCE ASSESSMENT REPORT FOR 2023-24  
FINANCIAL YEAR (2/10/1/1/1)

(Page 42)

This report seeks to present the performance status of the Municipality during the first six (06) months of the financial year. On the other hand, reference is also made to the past year's performance to determine progress in addressing service delivery challenges identified.

It is worth noting that the Municipality has remained resilient notwithstanding ongoing disasters, mainly in the form of floods. The Municipality subscribes to good governance in the manner that political and administrative structures are in place resulting in timeous decision making on operational matters.

Arising from performance assessment, eThekweni Municipality has achieved 70.52% as at 31 December 2023, and with its Entities, the Inkosi Albert Luthuli International Convention Centre achieving 85.71% during the same period, and the Durban Marine Theme Park achieving 87.50%.

The performance outcome is slightly higher than the outcome during the same period in the last financial year. The Municipality achieved 65.55% during the 2022-23 financial year. Whilst there have been improvements during this mid-term, but cognisance is taken of the challenges hindering the attainment of 100% achievement and these relate to:

- (i) Poor planning and budgeting by certain departments
- (ii) Poor record keeping and thus inability to conduct verification exercise
- (iii) Inadequate resources in the form of personnel and finance

However, structures have been established to monitor the performance and address bottlenecks and/or challenges, and this include:

- (i) The Performance Review Committee chaired by the City Managers and convening on a quarterly basis with all Deputy City Managers participating thereat
- (ii) Regular Budget Planning Improvements Meetings
- (iii) Mid-Term Amendments to accommodate changes triggered by the Adjustment Budget
- (iv) Support by National Treasury to comply with Compulsory Indicators

The Committee noted the Report as presented; cognisance being taken that more efforts need to be directed towards attaining 100% achievement.

Accordingly,

**COMMITTEE RECOMMENDS:**

That in compliance with Sections 72 of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003, and Sections 33 and 34 of the Municipal Budget and Reporting Regulations in terms of Government Notice 32141 dated 2009-04-17, relating to the “MFMA, the Municipal Budget and Reporting Regulations”, the Mid-Year Performance Assessment Report as at 2023-12-31, submitted by the City Manager as per his report dated 2024-01-22, and recording performance achievement of 70.52% for the eThekweni Municipality; with its Entities, the Inkosi Albert Luthuli International Convention Centre achieving 85.71% during the same period, and the Durban Marine Theme Park achieving 87.50%, be noted.

**Commenting on the matter, the DA mentioned that the above report was a legislative requirement, however, they pointed out that the Municipal performance assessment of 70.52% as at the end of 31 December 2023, was not a true reflection of the accomplishment of the needs of the residents of eThekweni, citing amongst others water challenge. They mentioned that the Municipality has a responsibility to communicate all relevant information pertaining to service delivery to the residence of the City to enable them to plan their daily lives according to what they have been informed by the Municipality.**

**In noting the report, the IFP further raised concerns that there was intermittent water supply for more than six (06) months in Phoenix area, non-implementation of consequence management, poor financial management planning; proper record keeping measures not being implemented, further citing that the situation was deteriorating and indicated that the current administration had to be removed.**

**Thereafter, the above recommendations were accordingly, NOTED.**

5. REQUEST FOR AUTHORITY TO FINALISE AND SIGN THE WATER USER AGREEMENT AND FRAMEWORK AGREEMENT WS2024/009 FOR THE UPPER MKHOMAZI WATER PROJECT (23/1/2)

(Page 49)

Authority is sought to approve the Water User Agreement and the Framework Agreement in respect of Upper uMkhomazi Water Project (uMWP-1) in terms of Section 33 (1)(c) (ii) of the Local Government: Municipal Finance Management Act, No. 56 of 2003 (MFMA) and to further authorise the City Manager in terms of Section 33(1) (c) (iii) of the MFMA to sign the Water User Agreement and the Framework Agreement relating to the negotiations between the Department of Water and Sanitation (DWS), the Trans-Caledon Tunnel Authority (TCTA), uMngeni-uThukela Water (UW) and the eThekweni Municipality, in respect of the Upper uMkhomazi Water Project (uMWP-1).

The project entails the construction of the Smithfield Dam, a raw water tunnel, a water treatment works and a potable water pipeline. The raw water component of this project will be constructed by DWS and the potable water component will be constructed by UUW. The TCTA is a State-Owned Entity responsible for the financing and implementation of the bulk raw water infrastructure projects and is the Implementing Agent of the DWS. The cost of the raw water component was determined in 2014 and updated in April 2019 to an estimated R23.2bn (excluding VAT and funding costs).

In this regard, authority is sought for the City Manager to sign the Water User Agreement and the Framework Agreement on behalf of eThekweni Municipality in order for the TCTA to continue soliciting tenders for the construction phase of the project.

The objectives of the uMWP-1 which are critical for the Municipality to achieve are to augment the yield of the Mgeni Water Supply System by 200 million cubic metres per annum to 594 million cubic metres per annum; and increase assurance of supply to the water users in the Mgeni Water Supply System. The uMWP-1 (raw water component only) will be located across the uMkhomazi River and uMlaza River catchments in the southern part of KwaZulu-Natal, comprising the (i) Smithfield Dam in the uMkhomazi River near Bulwer, and (ii) a conveyance infrastructure from the Smithfield Dam to the water treatment works in the uMlaza River valley.

The raw water will be transferred from the uMkhomazi River to the existing bulk distribution system in the uMgeni River catchment. Conveyance of raw water from the Smithfield Dam to the water treatment works, will be via a tunnel and pipeline. The UUW will construct the bulk potable water pipeline from its new water treatment plant to the existing Umlaas Road reservoir to enable full integration of uMWP-1 into the Mgeni Water Supply System (WSS). The uMWP-1 will increase the yield of the Mgeni WSS by 214 million m<sup>3</sup>/a i.e. to the 2050 development level.

With this project to prolong beyond 3 years, the MFMA Section 33 process was followed., and therefore comments and inputs were solicited from the following institutions:

- The Department of Water & Sanitation
- KZN Provincial Treasury
- National Treasury
- KZN Provincial Department of Cooperative Governance & Traditional Affairs

The primary points raised related to the need for the Agreements to be drafted such as to make provision for full compliance with all applicable legislations. Also, that the Municipality must not expose itself to undue financial risk. Further, to guard against the project impacting on the sustainability of the Municipality. The comments have been taken into consideration in finalizing the Agreements.

Detailed changes to the Agreements at the completion of the Section 33 process are contained in Annexure 4 attached to the draft Agreement. The synopsis of which are recorded as follows:

**(i) Clause 12:**

Provision has previously been made in the Water User Agreement to request a letter of “no objection” from the City Manager prior to the award

of the main construction contracts. It was the view of the TCTA that such a Clause would make the project unattractive to the Lenders and thus unbankable. To mitigate, the Financial Model will be updated by the TCTA upon receipt of the Engineers projects estimates. The Municipality will be able to comment on the affordability of any revised tariff and this will be referred to the Municipal Council for adoption if required.

**(ii) Clause 13.2**

The removal of this Clause under the Termination Costs section of the Water User Agreement “From the Commencement Date and subject to the provisions of Clause 13.5, the User shall have a right to withdraw from the Agreement in the event that the estimated project costs of R23 Million by more than 15%.

**(iii) Clause Addition**

Addition of the Clause “The Agreement is subject to review in terms of the MFMA, taking into account the affordability and the impact of the financial obligations on the Municipality’s future Municipal tariffs and revenue”

**(iv) Improved Reporting and Accountability**

This part has been incorporated into the Agreements to enable accurate monitoring and effective contract management.

**(v) Transparency**

The Agreements provide that critical documents and information pertaining to the project such as audit reports; loan agreements; and administration charges will be transparently shared.

**(vi) Applicable Legislation**

All applicable legislation has been referenced for robust compliance

**(vii) Tariffs Negotiations**

The process to be followed during the annual tariff negotiations has been improved and is more robust

**(viii) Reporting Requirements**

The Agreement provide for the reporting on the project progress to Municipal Council every three (03) years.

With the Executive Committee supporting this augmentation project in view of a critical need to increase assurance of supply to the water users,

**COMMITTEE RECOMMENDS:**

- 5.1 That the Water User Agreement and the Framework Agreement circulated separately, and developed to manage the Upper uMkhomazi Water Project (uMWP-1), in terms of Section 33 (1)(c) (ii) of the Local Government: Municipal Finance Management Act (MFMA), No. 56 of 2003, be approved.
- 5.2 That subject to the approval of 5.1 above, authority be granted for the City Manager to sign the Water User Agreement and the Framework Agreement in respect of the uMWP-1, in terms of Section 33(1) (c) (iii) of the MFMA.

### **Financial Implications**

The costs of the potable water component of the scheme is R8.9bn and this amount has been accommodated in UUW's forward capital programme. The capital and operating costs of UUW are funded by its User Municipalities and the potable water component of the scheme will not have any additional direct impact on the potable water tariff that is charged to the Municipality.

The costs for the raw water component of the uMWP-1 was estimated in April 2019 to be R23.2bn (including contingencies and excluding VAT). Whilst there are no direct capital cost implications for the Municipality, the costs of the raw water scheme will be recovered from a Capital User Charge (CUC) incorporated into the potable water tariffs. The costs for uMWP-1 will be proportionally paid by the various User Municipalities.

Due to the age and accuracy of the information upon which it was based at the time, it will be vital that the project financial model is updated once the engineers estimates and tender prices are received in 2024/25. This process will enable the Municipality to consider the updated financial model and verify that the assumptions made at the time do not differ significantly and thereby negatively impact on the sustainability of the Municipality.

uMWP	2023/24 Actual	2024/25 Proposed	2025/26 Forecast	2026/27 Forecast	2027/28 Forecast	2028/29 Forecast	2029/30 Forecast
uMWP-1 Capital Tariff R/m <sup>3</sup>	-	R 2,139	R 2,242	R 2,349	R 2,462	R 2,570	R 2,683
% Increment			4,8%	4,8%	4,8%	4,4%	4,4%
CPI	6,50%	6,30%	4,8%	4,8%	4,8%	4,4%	4,4%

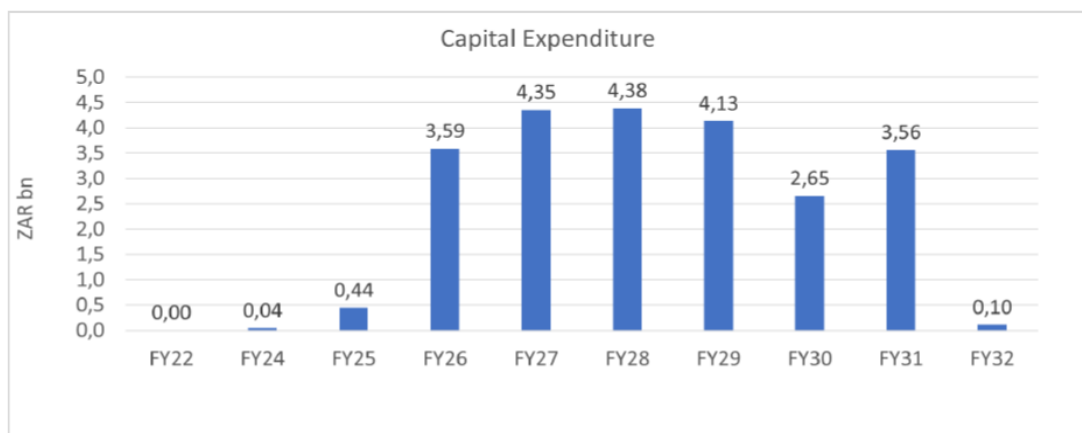
*Table 2: The forecast CUC tariff trajectory over the medium term (Source TCTA - November 2023 Tariff Consultations)*

A Capital tariff of R2,139/m<sup>3</sup> will result in a payment of approximately R859m per annum. The tariff trajectory for the entire project is shown in table B4 of Annexure B in the Water User Agreement.

A significant change in assumptions in the current financial model, is that the grant funding and interest free loan as approved by the National Treasury will now be utilised first before any commercial loans are drawn down.

This change will be of great benefit to the User Municipalities as it will delay the drawing down of the commercial loans and will significantly reduce the interest payable and capitalized interest during construction.

Figure 2 below shows the projected expenditure of the project.



*Figure 2: Projected Project Capital Expenditure (Source TCTA - November 2023 Tariff Consultations)*

**Commenting on the matter, the DA mentioned that R28 billion was required for completion of the much-needed Upper uMkhomazi Water Project (uMWP-1), and they further noted the contribution from the National Treasury (NT) as well as the responsibilities to be shared amongst the Municipalities. However, they mentioned that the Municipalities should lobby for more financial support if not**

all from the NT. They highlighted that there has been an increased demand for water with ageing infrastructure being blamed for water shedding. It was mentioned that there has been a decreased water supply from the Durban Heights and Hazelmere Dam, it being mentioned that the proposed increase of water supply from the uMWP-1, will only be realised in the year 2032, equivalent to eight (08) years from to date. In this regard, they mentioned that funds being lost through the 56% non-revenue water had to be urgently addressed, as human rights violations are unfolding daily. They also expressed concern that there has never been any serious turnaround strategy to resolve the matter. While the DA support the recommendation, they condemned the delays being caused, and further cited that it was unfair for the residence to wait for this long to receive uninterrupted water supply.

Meanwhile, the NFP commended the Municipal team for the above report and emphasized that it was a Constitutional right of all citizens to receive safe water. The Municipal infrastructure damaged after the floods was considered by the NFP to be a situation beyond the City's control. That comfort was taken though that long-term plans are being made to resolve water shortages, reference being made to this important uMWP-1.

Thereafter, the ANC mentioned that the report is being considered at the appropriate time, specifically as the City is facing a water crisis period because of prevalence of flood disasters since 2017, which eroded the infrastructure and financial resources. Mention being made that millions of rands were spent to replace pipes which had already been replaced in the past, therefore it being a circle and beyond the City's control. However, it was emphasised that the Municipality still has a responsibility to resolve water challenges. It was noted that the City has one bulk water source which now has challenges, that of over extracting water from the source. It being mentioned that the costs of not doing anything are far greater than the eight (08) year period to be awaited. It being further mentioned that in the interim other options will be explored including water harvesting and water catchment area within the Durban Central District, to make use of the heavy rainfalls.

Also speaking on the matter, the IFP supported the recommendations, however they expressed concern that the project has been dragged for the long period of time, due to what they viewed as poor management planning and that not much has been done by the Municipality.

Accordingly, the above recommendations were, **ADOPTED.**

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

(Page 132)

In line with the provisions of Section 3.4(b) of the Local Government: Municipal Planning and Performance Management Regulations, 2001, Municipalities are permitted to do adjustments to their plans.

As such, eThekweni Municipality has exercised this right thus effecting adjustment to its Service Delivery and Budget Implementation Plan (SDBIP) based on various reasons. This submission therefore seeks to notify Council of the intention to conduct public consultation for a period of 21 days to give public the opportunity to comment

on proposed adjustments to the SDBIP, as per the statutory requirement. Council Portfolio Committees are also to be given the opportunity to scrutinize the SDBIP amendments as part of their oversight role.

Accordingly,

**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, and with detailed amendments circulated separately.

**NOTED.**

7. SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN QUARTERLY REPORTING - 31 DECEMBER 2023 (2/10/1/1/9)

(Page 13)

In terms of the Local Government: Municipal Systems Act, No. 32 of 2000, the Municipality must adopt a performance management system which contains key performance indicators that are set in line with the adopted Integrated Development Plan (IDP). The Performance Management System has been adopted by Council and the Key Performance Indicators have been set in line with the adopted IDP. Furthermore, in terms of the Local Government: Municipal Finance Management Act No. 56 of 2003 (Section 72), “the performance of the Municipality must be assessed taking into consideration:

- (i) The Municipality’s service delivery during the first half of the year;
- (ii) The past year’s annual report and progress in resolving problems identified; and
- (iii) The performance of every Municipal Entity under the control of the Municipality.”

This report reflects the Municipality’s service delivery performance for the first six (06) months of the 2023/2024 financial year. The report also reflects on the past year’s annual report and the performance of the two Municipal Entities within the control of the Municipality.

**COMMITTEE RECOMMENDS:**

That Council notes the Service Delivery and Budget Implementation Plan Report for Quarter 2 of the 2023/2024 financial year, submitted in line with Section 72 of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003 and MFMA Circular No 13, which Report reflects overall unaudited achievement of 70.52% for the eThekweni Municipality; and the Municipal Entities, Inkosi Albert Luthuli International Convention Centre, trading as Durban ICC, recording 85,71% achievement, with the Durban Marine Park, trading as Ushaka Marine World, recording 87,50%, the breakdown per Cluster plans are recorded in the table:

Plan No	Plan Name	Achievement Rate
1	Develop and sustain our Spatial, Natural and Built Environment	81.82%
2	Developing a Prosperous, Diverse Economy and Employment Creation	86.67%
3A	Creating a Quality Living Environment – Trading Services	72.22%
3B	Creating a Quality Living Environment	62.50%
3C	Creating a Quality Living Environment – Strategy Office	33.33%
4A	Fostering a Socially Equitable Environment	80.00%
4B	Fostering a Socially Equitable Environment	70.00%
5	Supporting organisational design, Human Capital Development and Management	81.25%
6A	A vibrant and creative City – the foundation for sustainability and social cohesion	50.00%
6B	A vibrant and creative City – the foundation for sustainability and social cohesion	100.00%
6C	A vibrant and creative City – the foundation for sustainability and social cohesion	41.67%
7A	Good Governance and Responsive Local Government	100%
7B	Good Governance and Responsive Local Government	100.00%
7C	Good Governance and Responsive Local Government	100.00%
8	Financially Accountable and Sustainable City	61.90%
	<b>Overall Achievement</b>	<b>74.17%</b>

Plan Number	Plan Name	Achievement Rate
Plan 21	ICC	85.71%
Plan 21	uShaka	87.50%

Commenting on the report, the DA mentioned that the achievement of 70.52% for Municipal performance was not consistent with the realities on the ground. They cited non-functional pump stations, potholes on the road, overgrown verges on the street with non-functional streetlights. They were also of the opinion that the Municipality had failed to address the issue of homeless people, also that there was lack of By-Law enforcements and lack of service delivery.

Thereafter, the ANC noted the Service Delivery and Budget Implementation Plan Quarterly Report for the second quarter ending 31 December 2023. They mentioned that the report was categorised into different aspect based on the Municipal Integrated Development Plan. The ANC cautioned against quoting the random service delivery issues instead of referring to the key performance areas and achievement of set goals thereof. That the Executive Committee will continue taking up their responsibilities of the day to day running of the Municipality.

Thereafter, the above recommendations were, **NOTED.**

*At this stage of the proceedings, time being 17h45, the DA requested 08 (eight) minutes for caucus, and the Speaker accordingly granted 05 (five) minutes. The meeting thereafter resumed at 18h10.*



8. AUTHORITY TO TRANSFER FUNDS TO Y8792 – DESIGN, SUPPLY, AND  
INSTALLATION OF ALTERNATIVE ON-SITE SANITATION TECHNOLOGY  
TO REPLACE PIT TOILETS WITH THE ETHEKWINI MUNICIPAL AREA  
(23/2/2)

(L 113)

The eThekweni Municipality through its Water and Sanitation Policy has established a framework of minimum standards for sanitation in a quest to provide sanitation services that are safe, reliable, environmentally sound, easy to keep clean, provides privacy and protection against the weather, is well ventilated, keeps smells to a minimum and prevents the entry and exit of flies and other disease carrying pests. Also, to provide acceptable access to sanitation to communities within its jurisdiction and specifically those which are not yet connected to the water borne sanitation system which spans across the reach of Municipality.

The Municipality is currently facing significant backlog in the provision of acceptable sanitation mainly to previously disadvantaged and marginalized communities within the eThekweni Municipal area, due to lack of bulk sewer infrastructure and funding constraints. These areas are currently without any bulk sewer infrastructure and the most likely viable option available is the installation of onsite infrastructure inclusive of urine diversion toilets and any other proven form of on-site sanitation technology.

It is estimated that over fifty thousand (50 000) households require on-site sanitation throughout the Municipal area. The number keeps on increasing due to rapid urbanization. Authority is therefore sought to transfer funds from Project No. Y9460B - Hillcrest Glenwood RD- Rehab of Flood Damages Infra to Project No. Y 8792 - Design, Supply and installation of alternative on-site sanitation technology to replace Pit toilets within the eThekweni Municipal Area. The transfer is informed by that procurement process is still underway for the Hillcrest Glenwood project.

The Committee noted the significance of ablution facilities to treat communities with dignity and with the DA abstaining;

**COMMITTEE RECOMMENDS:**

That authority be granted to transfer an amount of R50 000 000.00 (Fifty Million Rand) from Project No. Y9460B – Hillcrest Glenwood Rd - Rehab of Flood Damages Infra to Project No. Y8792 – Design, Supply and Installation of alternative on-site sanitation technology to replace Pit toilets within the eThekweni Municipal area.

**Financial Implications**

The Project No Y 8792 - Design, Supply and installation of alternative on-site sanitation technology to replace Pit toilets within the eThekweni Municipal Area. Requires additional funding to continue serving wards that are in urgent need of sanitation. About 4375 toilets have been constructed since 1<sup>st</sup> of April 2023. This report recommends an allocation of R50 000 000.00 (Fifty Million Rand) through a budget transfer from PROJECT HILLCREST GLENWOOD RD- REHAB OF FLOOD DAMAGES INFRA for which procurement processes are still underway.

**Project No: Y8792**

**R50 000 000.00**

**(Excl. VAT) 2023/2024**

### **REFERENCE BACK**

In terms of Rule of Order Bylaw 20(1)(c), Councillor MS Gwala seconded by Councillor NP Mchunu from the IFP, moved as a procedural motion that, *“Authority to Transfer Funds to Y8792 – Design, Supply, and Installation of Alternative On-Site Sanitation Technology to Replace Pit Toilets with the eThekweni Municipal Area (23/2/2)”*, be referred back to the Committee for further consideration.

### **NOT CARRIED**

As some members were not in support of the reference back, the matter was put to the vote. With 171 Councillors present, 74 Councillors (DA- 51; IFP -13; Action SA - 04; ACDP – 01; DLC – 01; KZNI - 01, MF – 01, UIM – 01 and VF Plus – 01) voted in favour of the reference back and 96 Councillors (ANC - 85, ABC – 02; ACC - 01, AIC – 02, ADEC – 00; APF – 01; ATM - 01; ALJAMAH – 00; JEP - 00; MOSA – 01; NFP -01; PFP – 01 and TA- 00 ) voted against the reference back. 01 PRM Councillor abstained on the matter.

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

Discussion thereafter reverted back to the substantive matter, wherein, the IFP mentioned that the Hillcrest Glenwood RD- Rehab of Flood Damages Infra Project was urgent and critical. Therefore, taking away funds from this project will cause further delays and confusion, as the budget of R15 million was reserved to respond to the flood damages. They also cited that the matter was never deliberated by the Support Committee.

The APF supported the recommendations and cited that it will provide the much-needed service to the communities.

Thereafter, the ANC mentioned that the community appreciated the introduction of the on-site sanitation technology to replace Pit toilets. They emphasised that the funds to be utilised for the Sanitation project will not interfere with the plans to complete the Hillcrest Project.

As some members were not in support of the recommendations, the matter was put to the vote. With 174 Councillors present, 114 Councillors (ANC - 86, IFP -12; ABC – 02; ACC - 01, ACDP – 01, AIC – 02, DLC – 01; ADEC – 00; APF – 01; ATM - 01; ALJAMAH – 00; JEP - 00; KZNI - 01, MF – 01, MOSA – 01; NFP -01; PFP – 01, PRM – 01 and TA- 001) voted in favour of the recommendations. 01-VF Plus Councillor voted against the recommendations. 59 Councillors (DA- 54, ActionSA-04 and 01- UIM) Councillors abstained on the matter.

Thereafter the above recommendations were by a majority vote, **ADOPTED**; but precise resolution on this matter and which should be referred to for implementation purposes is contained on the Third Report of the Executive Committee, item 2 of Page 33.

9. REQUEST FOR AUTHORITY TO TRANSFER FUNDS APPROVED BY THE NATIONAL DISASTER MANAGEMENT CENTRE WITHIN THE RECONSTRUCTION AND REHABILITATION PROGRAMME UNDER WATER AND SANITATION UNIT (23/1/9 & 7/4/2)

(L 114)

The eThekweni Municipality received an allocation of R1 534 784 520.00 (One Billion Five Hundred and Thirty-Four Million Seven Hundred and Eighty-Four Thousand Five Hundred and Twenty Rand) from the Reconstruction and Rehabilitation Grant (R&RG) as a second tranche to repair damaged infrastructure.

An amount of R228 414 660.00 of this grant has been set aside for Water and Sanitation Projects while R115 870 000,00 is dedicated to Water Projects. In view of other projects having already been implemented through Council budget reprioritization, savings have been identified under the NDMC funding. A request was then submitted and approved by the NDMC for the Water and Sanitation to utilise savings in the amount of R33 450 000 (Thirty-Three Million Four Hundred and Fifty Thousand Rand) to fund shortfall in fifteen (15) other identified projects within the Reconstruction and Rehabilitation Programme.

The Unit is now requesting concurrent approval by the Municipal Council to then transfer the savings accordingly to top up funding for fifteen (15) projects in the Municipal Disaster Response under the Reconstruction and Rehabilitation Programme. Of the 15 identified projects the Municipality has already committed budget by awarding projects worth R82 420 000.00 and requires this available budget of R33 450 000.00 to bring seven (07) of these 15 projects to completion thereby fully spending the allocated grant.

With the Committee understanding the rationale behind the savings realised and the transfer request, accordingly,

COMMITTEE RECOMMENDS:

- 9.1 That Council notes approval already granted by the National Disaster Management Centre (NDMC) to utilise savings in the amount of R33 450 000.00 (Thirty-Three Million Four Hundred and Fifty Thousand Rand) to fund the fifteen (15) identified Water & Sanitation Unit projects in the Municipal Disaster Response Grant under the Reconstruction and Rehabilitation Programme.
- 9.2 That in view of the MDC approval in .1 above, the Council also grants concurrent approval to transfer the savings of R33 450 000.00 (Thirty-Three Million Four Hundred and Fifty Thousand Rand) to top up funding required to complete identified Water and Sanitation projects.

**Speaking on the above report, the DA expressed a concern querying as to how funds have been declared as savings whereas the projects have not been completed. They mentioned that water losses of 58% equivalent to millions lost in revenue and the R27 billion of uncollected debt were funding which was ought to be directed to water infrastructure projects. They further stated that there was no political will to resolve these matters. Emphasis being made projects had to be completed timeously and savings not to be declared, for uncompleted projects.**

Thereafter, the ANC supported the recommendations and reiterated that grant funding for projects has to be utilised as planned.

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

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(The Deputy Mayor, Councillor Z Myeni tabled the Third Report of the Executive Committee).

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### THIRD REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2024-01-31)

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

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1. REQUEST FOR APPROVAL OF UNAUTHORISED EXPENDITURE: CONSTRUCTION OF COMMUNAL ABLUTION BLOCKS UNDER WATER AND SANITATION UNIT OPERATIONS (23/2/2 & 7/1/2/2)

(Page 1)

The Municipal Council is kindly requested to note and approve unauthorized expenditure in the amount of R326 968 718.17 (Three Hundred and Twenty Six Million Nine Hundred and Sixty-Eight Thousand Seven Hundred and Eighteen Rand Seventeen Cents), incurred under Project Y6525 for provision of water and sanitation services to human settlements and schools during the 2019/2020 financial year.

As part of background, the Municipality implemented the project through service providers and consultants engaged to roll out the Communal Ablution Blocks (CABs) to provide water and sanitation access to informal settlements. The project was carried out and managed through the eThekweni Water and Sanitation Unit's Sanitation Operations Department. Consultants were engaged to provide construction supervision to certify work done prior to effecting any payments. Payments were made for work certified by the Consultants.

The Municipality later received complaints from Sub-Contractors, working under two (02) Main Contractors, Mandlethu Projects and Kulu Civils, advising of payments not effected for work done under this CABs project. The Water and Sanitation Unit followed the necessary processes to verify work undertaken, and discovered that this work was not part of the scope of works, thus resulting in unauthorized expenditure being discussed.

Thereafter, several consultations were conducted within the Municipality, including political leadership, to determine a way forward in this regard. The Municipal Council previously discussed a matter of this nature and adopted a decision to effect payments where value for money could be verified. It being noted that the Council previously supported some of the payments pertaining to the projects, that were retrospectively supported by the Consultants and verified by the Independent Auditors engaged to provide additional assurance of the payment being claimed.

The Independent Auditors have reported on the latest batch of these claims and submitted a report dated 06 December 2022, which is summarized as follows:

Main Contractor	Total Sites	Total Number of Sites Verified	Sites to be Paid for	Sites for which Claims were not Supported	Amount Recommended for Payment	Note Recommended for Payment
Mandlethu Projects	244	232	221	23	R102 827 549.06	R10 588 235.75
Kulu Civils	774	697	609	165	R224 141 169.11	R60 813 337.90
Total	1018	941	841	185	<b>R326 968 718.17</b>	R71 065 579.50

In deliberation on this matter, the Executive Committee shared similar sentiments that such an act of incurring this unauthorized expenditure is strongly not condoned, and acknowledged this place the Municipality in multiple risks. Whilst reservations were held on the matter, some of the Members expressed the view that, notwithstanding the unacceptable oversight in this regard, it is imperative to take responsibility and accountability as leadership, by regrettable inheriting this challenge to determine a way forward and to put measures in place to avoid repeat of similar occurrence in future.

The ANC Members submitted the views that officials responsible for this unauthorised expenditure should be held to account; with the City Manager being tasked to facilitate a process of developing a Policy that will respond to shortcomings of this nature for the Municipality to be empowered to implement specific actions in situations of this nature. On the other hand, withholding payment was considered exposing political and administrative leadership at risk to be attacked by the parties impacted by this project. Also running the risk of unpaid contractors blocking usage of the facilities to the detriment of the local communities.

The IFP referred to previous engagements on a similar matter, where serious reservations were expressed with regard to contractors undertaking work without obtaining permission from the Municipality. That this unbecoming behaviour should not be perpetrated. Whilst, not condemning the behaviour, but the IFP also understood the significance to clear this matter for the sake of all parties involved and relying on the positive outcome of the verification by the Auditors. However, that consequence management should be implemented for the leadership to put a stop to such unauthorised projects and payments thereto.

The NFP also supported the matter, emphasizing the importance of policy development for the Municipality to have legislations; rules; and laws to fall back on when similar conduct happens.

The EFF rejected this matter, pointing out its inability to become part of the problem it did not create. The DA was also not in support of this matter, pointing out that it appears the Unit concerned abdicated its responsibility to monitor this project but opted to rely on the Consultants. Further, that the excuse of attaining value for money

could not be regarded as justifiable to pay where contractors acted outside the authority of the Municipality. That this can't always be regarded as a point of departure and the reason to promote unauthorised expenditure.

During discussion, His Worship the Mayor, in his capacity as the Chairperson of the Executive Committee extended a sincere apology for the omission which has occurred in not consulting Councillor Mvubu as the Chairperson having jurisdiction over this matter, prior to submitting the report directly to the Executive Committee. His Worship the Mayor emphasized that no matter will be accepted going forward if the relevant Chairpersons have not been consulted, and the City Manager was implored to ensure this prior engagement occurs prior to requesting the intervention of the Executive Committee. This was noted by Management, it being pointed out that indeed consultation is always undertaken, but that this was an isolated incident due to working around the clock overnight trying to ensure the report serves before the Executive Committee and Council this day.

Management then confirmed that the expenditure in question will be included in the Adjustments budget due to be submitted for considered by the Municipal Council in February 2024. That, in dealing with the matter, consideration will be given to ensuring compliance with the necessary legislation; rules; and laws to ratify the matter.

Given diverse views submitted on the matter, it was, by the majority vote, subsequently agreed to recommend to Council to approve the payment of unauthorized expenditure in relation to the CABs project. The votes of the Parties are accordingly recorded as follows:

- DA (03): Not in favour of the recommendation submitted
- EFF (01): Not in favour of the recommendation
- ANC (04): In support of the recommendation
- IFP (01): In support of the recommendation
- NFP (01): In support of the recommendation

It being reiterated that consequence management will still be implemented, as well as mitigating the risk of this nature through policy development or refer to the existing policies in the event the risk clause is adequately incorporated therein.

Accordingly, the majority members felt it is in the best interest of the Municipality to effect the payment due and avoid potential litigation.

Therefore,

#### COMMITTEE RECOMMENDS:

- 1.1 That Council considers and notes background information, challenges and risk highlighted with respect to contractors that constructed the Communal Ablution Blocks to provide water and sanitation access to informal settlements, thereby responding to the Constitutional requirement and Water Services Act No. 108 of 1997, that citizens be provided with sufficient water, and provision for the right of access to basic water supply and the right to basic sanitation necessary to secure sufficient water and an environment not harmful to human health or well-being, even though the work was undertaken without prior authorization by the relevant Water and Sanitation Unit, but taking into account that the Independent Auditors verified and reconciled the project, thus confirming value for money.

- 1.2 That, in view of .1 above, and in order for the Municipality to regularize the matter and minimize exposing the Municipality to further risks in relation to this matter, authority be granted for the Deputy City Manager: Trading Services to identify savings in the amount of R326 968 718.17. (Three Hundred and Twenty-Six Million Nine Hundred and Sixty-Eight Thousand Seven Hundred & Eighteen Rand Seventeen Cents), which is the partial amount as per the work currently vetted by the Independent Auditors, it being recorded that the verification process will proceed to determine further amounts due for payment.
- 1.3 That, the Deputy City Manager: Finance, work with the Water and Sanitation Unit to identify savings to settle the amount verified and reconciled thus far, pending further verification and reconciliation by the Independent Auditors, and the subsequent submission of the report for approval by the Municipal Council.

**Financial Implications**

The Independent Auditors have reported on the last batch of these claims and submitted reports dated 06 December 2022 which can be summarized as follows, however reports were finalized for the write-off of Community Ablution Blocks (CABs) that could not be verified to a value in excess of R900m.

Main Contractor	Total Sites	Total Number of Sites verified	Sites to be paid for	Sites for which Claims were not Supported	Amount recommended for payment	Note recommended for payment
Mandlethu Projects	244	232	221	23	R102 827 549.06	R10 588 235.75
Kulu Civils	774	697	609	165	R224 141 169.11	R60 813 337.90
Total	1018	941	841	185	R326 968 718.17	R71 065 579.50

**Commenting on the matter, the DA were not in support of the recommendations, and cited that business forums were demanding payments for services rendered without obtaining necessary approval from the Municipality and they viewed this as a criminal behaviour. They further mentioned that similar arguments and reports had been deliberated upon in the past and there were no checks and balances also being done in those projects. The DA pointed out that it appeared that the Unit concerned abdicated its responsibility to monitor this project but opted to rely on the Consultants. Further, that there was no accountability and the excuse of attaining value for money could not be regarded as justifiable to pay where contractors acted outside the authority of the Municipality and the reason to promote unauthorised expenditure.**

**Meanwhile, the IFP mentioned that Municipal officials were now being attacked by protestors who demand payments for services which were rendered without permission from the Municipality. It being noted that independent Auditors were appointed to verify the work undertaken. However, they cited that no further reports of such nature should emerge in the future.**

**Also commenting on the matter, the ActionSA cited that there was no formal authorization from the Municipality for the contractors to undertake the work and there was a need for accountability and consequence management to be implemented.**

**Thereafter, the ANC mentioned that the above report reflects that the work undertaken has been investigated and verified by auditors. They mentioned that this report was first submitted to Council back in the year 2019 and it was recommended that investigations be undertaken by independent auditors.**

Therefore, this report now reflects the outcome of the investigations, and the Municipality had to ensure that a similar occurrence should not occur in the future. They reiterated that officials responsible for this unauthorised expenditure should be held to account; with the City Manager being tasked to facilitate a process of developing a Policy that will respond to shortcomings of this nature for the Municipality to be empowered to implement specific actions in situations of this nature. On the other hand, withholding payment was considered exposing political and administrative leadership at risk to be attacked by the parties impacted by this project. Also running the risk of unpaid contractors blocking usage of the facilities to the detriment of the local communities.

As some members were not in support of the recommendations, the matter was put to the vote. With 169 Councillors present, 108 Councillors (ANC - 85, IFP -12; ABC – 02; ACC - 01, ACDP – 01, AIC – 02, DLC – 00; ADEC – 00; APF – 01; ATM - 01; ALJAMAH – 00; JEP - 00; KZNI - 01, MOSA – 00; NFP -01; PFP – 00, PRM – 01 and TA- 00) voted in favour of the recommendations. 60 Councillors (DA- 54, ActionSA- 04 and 01- UIM and VF Plus -01) voted against the recommendations. 01 – MF Councillor abstained on the matter.

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

2. REVIEW OF FINANCIAL IMPLICATIONS: ADDENDUM REPORT FOR AUTHORITY TO TRANSFER FUNDS TO Y8792 – DESIGN, SUPPLY, AND INSTALLATION OF ALTERNATIVE ON-SITE SANITATION TECHNOLOGY TO REPLACE PIT TOILETS WITH THE ETHEKWINI MUNICIPAL AREA (23/2/2)

(L 114)

The Executive Committee noted that the above matter was previously discussed and approved at the Executive Committee meeting of 29 January 2024, recorded as item 8 of page 14 in the Council Supplementary Agenda already circulated. However, Management subsequently submitted expert advice given that it is not permissible to identify savings from loan amount, thus a need to amend financial implications contained in the Supplementary Agenda, by indicating that savings will now be identified from other projects within the Water and Sanitation Unit which are not yet ready to be implemented due to procurement processes not completed, amongst the reasons cited.

Whilst acknowledging the importance to identify funding, but some members expressed dissatisfaction about taking funds from projects already in the pipeline as this interferes with service delivery leaving the communities concerned feeling aggrieved. In this regard, Management was requested and confirmed that there will be no project to be halted as a result of funds having been taken away, but that the projects will still proceed as planned once all related logistical requirements have been concluded.

Based on this assurance, the members supported the transfer of funds, and accordingly,



### COMMITTEE RECOMMENDS:

That in view of expert advice received by the Head: Water & Sanitation Unit, regarding permission not being granted to transfer funds from the loan funding, the Municipal Council approves editing financial implications recorded in the matter contained in item 8, page 14 of the Council Supplementary Agenda, to no longer transfer the amount of R50 000 000.00 (Fifty Million Rand) from Project No. Y9460B – Hillcrest Glenwood Rd - Rehab of Flood Damages Infra to Project No. Y8792 - Design, Supply and Installation of alternative on-site sanitation technology to replace Pit toilets within the eThekweni Municipal area, but the transfer to be now undertaken as per the details reflected in the table below:

#### Financial Implications

SAVINGS IDENTIFIED (Refer B Below)									
FY	Details		Account Number						Savings Identified
			Business Unit	Item. Sub	Funding	Costing	Project	Region	
23/24	UMBILO WWTW-REHAB OF FLOOD DAM		63711	43710	51080	0000	Y9159C	W018	20 000 000.00
23/24	HILLCREST GLENWOOD RD-REHAB OF FLOOD DAMAGED INFRA		63050	43730	51080	0000	Y9460C	W010	15 000 000.00
23/24	HAMMARSDALE WTW EXPANSION		63751	43710	51253	0000	Y6651A	W004	15 000 000.00
FY	Details		Account Number						Savings Required
			Business Unit	Item. Sub	Funding	Costing	Project	Region	
To the Project Below									
23/24	ALTERNATIVE TECHNOLOGY	SANITATION	64060	43760	51080	0000	Y8792	0010	35 000 000.00
23/24	ALTERNATIVE TECHNOLOGY	SANITATION	64060	43760	51080	0000	Y8792	0010	15 000 000.00
FUNDING CODES									
51080	USDG								
51253	ISUPG								

Some members were not in support of the recommendations, the matter was put to the vote. With 167 Councillors present, 111 Councillors (ANC - 85, IFP -12; ABC – 02; ACC - 01, ACDP – 01, AIC – 02, DLC – 00; ADEC – 00; APF – 01; ATM - 01; ALJAMAH – 00; JEP - 00; KZNI - 01, MF – 01, MOSA – 00; NFP -01; PFP – 00, PRM – 01, TA - 00, UIM - 01 and VF Plus -01) voted in favour of the recommendations. 56 Councillors (DA- 53 and ActionSA- 03) abstained on the matter.

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

## REPORT OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

### 4. REPORT OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

#### 4.1 REPORT OF THE MPAC FOR THE 2023/2024 SECOND QUARTER ENDING DECEMBER 2023

That Council notes the report of the Municipal Public Accounts Committee for quarter 2 of the 2023/2024 financial year, i.e., the period ended 31 December 2023, it being recorded that the activities undertaken during the period under review include:

- (i) Review of the 2021-22 eThekweni Municipality's Annual Report

- (ii) Oversight role of the Municipality's financial management;
- (iii) Monitoring compliance with procurement processes;
- (iv) Monitoring performance of appointed service providers;
- (v) Oversight of Unauthorised; Irregular; Fruitless and Wasteful Expenditure;
- (vi) Tracking implementation of mitigating measures arising from the findings raised by the Auditor-General; and
- (vii) Monitoring of investigations undertaken by the City Integrity and Investigation Unit.

**DEFERRED, to a Special Meeting.**

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

5.1 NOTICE OF MOTION: PROPOSED BY COUNCILLOR J ANNIPEN AND  
SECONDED BY COUNCILLOR J NAIDOO: MORATORIUM ON WATER  
DISCONNECTIONS (23/1/11/6/3)

This Council noting that:

Thousand of water meters have gone unread in eThekweni for over 01 (one) year and residents being billed estimated charges for usage. This does not accurately translate to water usage verses billing and violates the Council's Credit Control and Debt Recovery Policy.

Further noting that:

A number of residents do not have water meters because, it has been stolen, vandalized or never had water meters before.

This Council resolves that:

Executive Committee consider the following recommendations and reports its fundings in the next meeting:

1. Implementing an immediate moratorium on disconnection of water supply of all residents in eThekweni until the meter reading department has a standard operating procedure on reading of water meters.
2. Conduct an audit of water meters in stock.
3. Conduct an audit of properties without water meters.
3. Set a timeline to close the gap between point 2 and 3 above.

**DEFERRED, to a Special Meeting.**

5.2 NOTICE OF MOTION: PROPOSED BY COUNCILLOR J NAIDOO AND  
SECONDED BY COUNCILLOR J ANNIPEN: DEBT PAYMENT RELIEF  
PROGRAMME (7/6/3/1)

This Council noting that:

The Council resolution taken on 28 September 2023 WRT Debt Payment Relief Programme is scheduled to end on the 31 December 2023.

Further noting that:

A significant member of ratepayers have already taken advantage of the programme and a large degree of persons who anticipate employment in the new calendar year will also want to commit to settling their debt with the City.

This Council resolves that:

Executive Committee considers the following recommendations and reports its findings at the next Council meeting:

1. Preparing a report on the number of participants since the programme went live.
2. How much of debt has been recovered since the programme went live.
3. Expanding the programme for a further three (03) months from the date of the report being tabled to Council.

**DEFERRED, to a Special Meeting.**

5.3 NOTICE OF MOTION: PROPOSED BY COUNCILLOR SV GOVENDER AND  
SECONDED BY COUNCILLOR J ANNIPEN: LAND FOR FAITH BASED  
ORGANISATIONS (21/8/2)

This Council noting that:

In his State of the City Address, His Worship the Mayor Councillor Mxolisi Kaunda promised the Faith Based Community that Religious Organisations will be offered the purchase of land for worship purposed at 10% (ten percent) of its value.

Further noting that:

Correspondence to the Real Estate Department as proven futile, leaving Faith Based Organisation in the dark about the processes to follow in order to access land.

This Council resolves that:

Executive Committee urgently considers the following recommendations and report its findings to Council:

1. In consultation with the Real Estate, Spatial Planning and Land Use Management identify land in eThekweni to be used for religious purposes.
2. Through the necessary policy developers, formulate a policy to guide the process of accessing land for Religious Use.
3. Communicate the policy and its requirements to the Faith-Based Community by a way of public hearing, social media etc.

**DEFERRED, to a Special Meeting.**

5.4

NOTICE OF MOTION: PROPOSED BY COUNCILLOR MS NKOSI AND  
SECONDED BY COUNCILLOR MS GWALA: REMOVAL OF HIS WORSHIP  
THE MAYOR COUNCILLOR TM KAUNDA IN TERMS OF SECTION 53 OF THE  
LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, NO.117 OF 1998

This Council noting that:

Under the leadership of Councillor TM Kaunda eThekweni has been subjected to a number of embarrassment the most notable being, notarized findings by the Auditor General for multiple financial years, the misuse of municipal finance during the Covid-19 pandemic, protracted and unnecessary delays in providing housing to flood victims, and most recently, the R1,9 Billion being returned to National Treasury as a result of unspent grants designated for repair critical infrastructure damages during floods.

Further noting that:

Under his leadership as Mayor, Chairperson of the Executive Committee and Chairperson of the Finance Committee, residents endure the highest increases in tariffs, the City has written-off billions in UIFW expenditure, the Municipality has experienced the most unstable investor interest and most erratic cashflow patterns.

Therefore, this Council resolves to immediately:

Remove Councillor TM Kaunda as a member of the Executive Committee thereby removing him from Office.

**In motivating his motion Councillor Nkosi of the IFP who was seconded by Councillor Gwala, submitted that in terms of section 52 of the Local Government: Municipal Finance Management Act No. 56 of 2003, the Mayor has the responsibility to provide political guidance over fiscal and financial affairs of the Municipality; and to monitor and oversee the responsibilities of the Accounting Officer. In this regard, they felt that the Municipal state of affairs was deteriorating under the leadership of the Mayor.**

**Subsequently, the DA raised a point of order querying if it was not appropriate for His Worship the Mayor to recuse himself when the above matter was being discussed.**

**The Speaker advised that a similar incident had occurred in the past and a precedence was set, where it was confirmed that such matters would be discussed in the presence of His Worship Mayor, or any Council member concerned.**

**However, the DA disagreed with the notion and requested that their position be recorded as such. That a member who has a direct interest on the matter being discussed had to recuse themselves.**

**Continuing with his motivation, Councillor Nkosi mentioned that it was concerning that the Municipality has accumulated R2 billion of Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFWE) with no consequence management, also citing water challenges and that appropriate work was not being done under the leadership of the Mayor and therefore, they were of the view that the Mayor was no longer fit for his position.**

**Commenting on the motion, the DA submitted that it has been four (04) years since the election of the Mayor, and they were also of the opinion that under the leadership of the Mayor, the economic state of the City had worsened. They cited that many areas within the Municipality including KwaMakhutha, Verulam, Tongaat etc had been left without water for prolonged periods. They also emphasised the increase on the UIFWE over the years with no consequence management and that commitments made to resolve the Auditor General's findings were not being accomplished. They further proposed that a secret ballot vote be utilised to decide the outcome of this proposed motion.**

**Also commenting on the motion, the EFF submitted that there was no need for secret ballot as they are not in coalition with any party, and they only account to their own political party. They supported the motion to remove the Mayor as the Executive Committee Member and mentioned that there were items for which the EFF would vote in favour of and will also disagree with others and that this motion was no different.**

**The IFP submitted that the residence of eThekweni no longer had confidence in the leadership of Mayor. They cited the 58% of non-revenue water, collapsing infrastructure and R2 billion of UIFWE as some of the failures of the Municipality under the leadership of the Mayor. They appealed to all political parties to support the motion.**

**However, the ACC were of the view that the motion was incompetent, particularly during this time of the election year, as they felt that the motion was a disruptive political gain and will not assist the residents of the City. They emphasised that service delivery had to be prioritized. In this regard, they dissented to the motion and emphasized that the motion should not be supported to maintain stability, continuity, and progress.**

**In submitting a contrary view, the ActionSA mentioned that the Mayor was ought to have resigned even before the motion for his removal was considered. They mentioned that under the leadership of the Mayor, there has been serious water crisis, infrastructure challenges with 3,9% spent on infrastructure maintenance, poor financial management, R3,6 billion of UIFWE and further highlighted that a report on the proposed insourcing of Security Officers has not been presented to Council which had to be investigated by the Executive Committee. They also cited the ongoing investigation of the ANC women's league conference which was held at the Durban ICC being the Municipal entity, it being alleged that the payment for hosting the event at the entity has not been paid, due to lack of accountability.**

**Also joining the ACC, the APF emphasised that approval of the motion for the removal of the Mayor would destabilize the City and, on this basis, they were not in support of the matter.**

**Meanwhile, the ADEC supported the motion and further submitted that the entire Executive Committee members also had to resign, citing that the Municipality had a multi-party Executive Committee system. They mentioned that the Mayor had failed to provide leadership to the entire Executive Committee.**

The DLC also concurred with the ADEC with regards to the Municipality being governed through a multi-party Executive Committee system and for all Executive Committee members including the DA members to be held accountable.

Thereafter, the ANC presented that the City had been faced with three (03) disasters under the leadership of the Mayor and has been able overcome challenges associated with the disasters. They mentioned that the National Treasury had pronounced eThekweni Municipality as the most financially stable City in the Country, also that the Municipality had received unqualified opinion for the 2022/2023 financial year. They further indicated that the Municipality does not owe any monies to Eskom and uMngeni Water for bulk electricity and water supply. Other achievements highlighted included the collection rate which was above 90%, catalytic projects including the Shongweni and Oceans Mall which had been established to boost the economy of the City, that the Municipality was also leading in terms of USDG grant expenditure. In this regard, the ANC rejected the motion.

*Prior to the voting process, time being 14h26, the ACC requested five (05) minutes for a caucus, which was accordingly granted by the Speaker and the meeting resumed at 14h57.*

Thereafter, as some members were not in support of the recommendations, the matter was put to the vote. With 209 Councillors present, 98 Councillors (DA – 55, EFF – 20, IFP- 15, Action SA – 04, ACDP – 01, DLC -01, UIM – 01 and VF Plus – 01) voted in favour of the recommendations and 109 Councillors (ANC - 94, ABC- 02, ACC- 02, AIC – 02, APF -01, ATM – 01, ALJAMAH – 01, JEP – 01, KZNI – 01, MOSA- 01, NFP - 01, PFP - 01 and TA - 01) voted against the recommendations and 02 Councillors (MF – 01 and PRM – 01) abstained on the matter.

### **NOT CARRIED**

Thereafter, the above recommendations were by the majority vote, NOT CARRIED.

*At this stage of the proceedings, time being 15h14, the meeting took a comfort break and later resumed at 16h09.*

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## **URGENT NOTICES OF MOTION IN TERMS OF SECTION 22 OF THE RULES OF ORDER BY-LAW, 2014, AS AMENDED**

5.5

URGENT NOTICE OF MOTION: PROPOSED BY COUNCILLOR I SYED AND SECONDED BY COUNCILLOR M ISMAIL: RELIEF OF APPROXIMATELY 49000 HOUSEHOLDS AFFECTED BY BILLING AND ARREARS ADJUSTMENTS OF FREE BASIC WATER SINCE 2020 (7/6/1/5).

### **Motivation:**

1. Some 49000 households have been affected by this Municipality by being billing erroneously in arrear for free basic water that was granted to them historically.

2. The 17<sup>th</sup> edition July 2023/204 of eThekweni Water and Sanitation Service Levels Standards Section 5 under free basic water speaks to how this Municipality should apply itself on the matter of free basic water.
  - a. 6kl of water should be given to households that are valued under R250 000.00
  - b. Households that are valued between R250 000.00 and R650 000.00 could apply for free water.
  - c. All properties under 50sq mtrs in size should qualify for free water.
  - d. Indigent families living in higher value houses may apply to gain access to free water.
  - e. All water meter connected to standpipes via relevant flow meter shall provide free charge.
3. Households that have been historically given free basic water are the subjects of this billing.
4. Covid-19 pandemic compounded with the insurrection and floods has left many households wanting financially and otherwise and its should be the position of this Council to grant relief to those very consumers who continue paying their bills diligently and not prejudice them further.
5. The eThekweni Municipality under the leadership of Mayor Kaunda and the Executive Committee, has lost approximately 60% (sixty percent) in revenue from water purchased from uMngeni Water. This accounts for about R2 Billion (Two Billion Rands) in the current financial year.
6. Some 56% of water is currently lost in this City and some 46% of this is non-revenue water while still being granted its R1,5 Billion Rand grant for flood relief and infrastructure repair which is mainly water, sanitation and roads.

Relief through this Council:

1. All households under R650 000.00 be relieved of the debt completely and be granted at least three (03) months from date of notice to apply for free water as per the Service Level Standards.
2. All households occupied by indigent families be granted relief of debt completely and three (03) months from date of notice to apply for relief moving forward.
3. All households that fall out of the above two (02) categories be billed 50% of the value of service since 2020 payable over a period of thirty-six (36) months without interest.
4. Relief of debt completely for years from 2020 to current wherein their properties fell within the R650 000.00 threshold.

Therefore, this Council resolves that:

Executive Committee considers providing relief to some 49000 households affected by increase water tariffs billed erroneously in December 2023 and reports its findings at the Council meeting.

**DEFERRED, to a Special Meeting.**

5.6

NOTICE OF MOTION: PROPOSED BY COUNCILLOR Z MNCWANGO AND  
SECONDED BY COUNCILLOR AAK PARUK: DEBT RELIEF PROGRAMME  
EXTENSION (7/6/3/1)

Motivation:

Due to high employment rate consumes are unable to pay their utility bills. The debt review programme will bring relief to the households of the unemployed.

This Council noting that:

1. Debt review programme expired on 31 December 2023.
2. Due to economic challenges, some ratepayers cannot afford to pay.
3. The debt review programme that was in place did provide some relief to the community.

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

The extension of the debt review programme for ninety (90) days (three months).

**DEFERRED, to a Special Meeting.**

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## **REPORT OF COMMITTEE DECISIONS**

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

1. **EXECUTIVE COMMITTEE**

Meetings held on : 2023-11-14  
: 2023-12-07  
: 2023-12-11

2. **FINANCE COMMITTEE**

Meetings held on : 2023-11-22  
: 2023-12-19



3. HUMAN SETTLEMENTS AND INFRASTRUCTURE COMMITTEE

Meeting held on : 2023-11-22

4. Speaker's COMMITTEE

Meetings held on : 2023-11-08  
: 2023-11-27  
: 2023-12-08

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**ITEMS FOR NOTING**

The Items for Noting, reflected on Pages 34 to 47 of the Agenda, pertaining to the items discussed and resolved at the Executive Committee level during the month of November and December 2023 were, **NOTED.**

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The meeting terminated at 19h11 and moved into In-committee.

APPROVED AT THE MEETING OF THE ETHEKWINI COUNCIL ON 2024-02-29.

SPEAKER