

No. 52

MINUTES

OF

ETHEKWINI MUNICIPAL COUNCIL

Meeting held on Tuesday, 2023-10-31T10:00,
Inkosi Albert Luthuli International Conventional Centre, Durban.

PRESENT : Councillors TE Nyawose (Speaker), TM Kaunda (Mayor), ZP Myeni (Deputy Mayor), PS Sishange (Whip of Council), A Abdul, AD Beesley, A Beetge, M Billy, T Biyela, JM Black, NJ Bollman, M Brauteseth, WJD Burne, MH Buthelezi, KPM Cele, SB Cele, SP Chebure, J Chetty, R Cloete, SV De Boer, CB Dlamini, Z Dzanibe, J Essop, BA Fortein, SG Gama, DM Gcabashe, FO Gcabashe, R Gokool, G Govender, S Govender, SV Govender, Y Govender, BR Gumede, S Gumede, MS Gwala, GJ Hegter, MM Hlengwa, NP Hlomuka, SD Hlongwa, F Ismail, MF Ismail, M Johnson, MA Jokweni, K Khambule, MH Khan, 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, TG Makhanya, HS Makhathini, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, KT Mbhele, RP Mbonambi, BA Mchunu, JL Mchunu, NP Mchunu, RL McKenzie, X Mdlazi, FW Mdletshe, DL Mea, SP Mfeka, MA Mgobhozi, GN Mhlongo, NM Mhlongo, SE Mhlongo, T Miya, MB Mjadu, AZ Mkhize, KV Mkhize, MA Mkhize, ME Mkhize, MP Mkhize, NN Mkhize, NA Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, BR Mngadi, DF Mngadi, S Mngadi, SV Mngadi, MR Mngonyama, TJ Mnguni, ZM Mncwango, Mngoma, BV Mngwengwe, ZO Mnomiya, S Mnyandu, T Mohamed, SR Moodley, R Moses, ND Motseke, LI Msomi, DV Msweli, LG Mthembu, SSS Mthethwa, TD Mthethwa, TM Mthethwa, N Munien, OB Mvubu, SK Mzimela, BD Naidoo, NB Ndlela, AB Ndlovu, PB Ndlovu, PC Ndlovu, NS Ndlovu, TB Ndlovu, V Ndlovu, TH Nene, DB Ngubane, LE Nkomeni, DR Nowbuth, XM Nqweniso, DM Nsundwane, SH Ntombela, PC Ntshangase, BT Ntuli, N Ntuli, PB Ntuli, B Nxumalo, MR Nxumalo, PH Nxumalo, NN Nyanisa, MV Nzimande-Madlala, AAK Paruk, AE Peterson, D Pillay, P Pillay, BW Phewa, GDA Pullan, A Rampersad, S Sewshanker, A Shaheed, BH Shange, LP Shange, MG Shange, IM Shinga, Sibisi, KS Sibisi, WP Sibiya, BSB Sindane, EL Singh, J Singh, CN Sisoka, NI Sithole, BS Sivetye, EG Smith, ZR Sokhabase, ZA Solomon, BB Thusi, ME Thusi, M Thusi, NT Tyelinzima, JC Van den Berg, HM Van Der Ryst, NB Vilakazi, SM Windvogel, TV Xulu, T Xuma, NY Young, GN Zondi, M Zondi, N Zondi, ON Zondi-Mthembu, TG Zungu and there being three (03) vacancies.

ABSENT : Councillors J Annipen (Leave-Personal Commitments), J Essop (Leave-Personal Commitments), SN Gabela, GM Gasa, NBC Godlwana (Leave-Indisposed), NC Gumede, LBS Jali, DM James (Leave-Indisposed), FN Majola (Leave-Indisposed), SW Mcineka, K Mhlaba, DPM Mhlongo (Leave-Indisposed), E Mngadi, SB Mpanza, V Ncukana, MF Ndlovu, MF Ndlovu, J Naidoo, SG Nene, SB Ngcongco (Leave-Indisposed), MS Nkosi

(Leave-Personal Commitments), NZ Ntuli (Leave), Nowbuth (Leave-Personal Commitments), T Sabelo, LC Sikhakhane, TE Shezi, HP Shoji (Leave-Indisposed), S Singh (Leave-Personal Commitments), AD Snyman (Leave-Personal Commitments), I Syed (Leave-Indisposed), ZN Tshazela (Leave-Personal Commitments) and NI Webster (Leave-Indisposed).

AMAKHOSI

PRESENT : Inkosi EM Shoji

AMAKHOSI

ABSENT : Inkosi S Mlaba and JJ Shangase.

OFFICIALS

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

(At the commencement of the meeting 167 Councillors were present, comprising ANC - 80, DA - 53, EFF - 16, IFP - 9, Action SA - 04, ABC - 00, ACC - 01, ACDP - 01, AIC - 00, ADEC - 01, APF - 01, ATM - 01, AL JAMAH - 00, DLC - 01, JEP - 01, KZNI - 01, MF - 01, MOSA - 01, NFP - 01, PFP - 00, PRM - 01, TA- 01, UIM - 01 and VF Plus - 01.

1. NOTICE CONVENING THE MEETING

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

2. OPENING

The Speaker declared the meeting open at 10h23 and extended a warm welcome to Councillors; Traditional Leaders; City Manager; Deputy City Managers; Head Legal and Compliance Services and other Unit Heads; Members of the Administration; Media; and Members of the Public viewing live streaming on social media platforms.

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.

At this stage of the proceedings, the DA raised a point of order and sought clarity if it was optional for other members of Council not to participate in an instruction made the Speaker relative to the rendition of the National Anthem. In response the Speaker ruled out this point of order and further stated that this was not the appropriate platform. He further advised that if the DA had a divergent view on the matter same should be raised through the Whip of Council.

4. OPPORTUNITY FOR PRAYER/MEDITATION

A moment of silence was observed as an opportunity for prayer and meditation prior to commencement of the meeting.

5. OFFICIAL ANNOUNCEMENTS

Presenting the official announcements, the Speaker congratulated the South African Rugby Team (the Springboks) for their sterling victory against the New Zealand Rugby Team thus emerging as the 2023 World Cup Champions. As part of the celebratory trophy tours taking place country-wide, he advised that the Durban leg was scheduled for Saturday, 04 November 2023 and members were encouraged to rally behind this historic celebration. On the same note, he advised that His Excellency, Mr C Ramaphosa had since pronounced 15 December 2023 as the public holiday in honour of the Springbok's victory.

Reporting on the status of the Public Employment Programme (PEP), the President of South Africa was saluted for initiating this programme as a response to high unemployment challenges faced by the country, the province, and the city at large. Council was then requested to note that currently there were challenges being experienced pertaining to the programme. Assurance was then given that His Worship the Mayor and the administration were working tirelessly to resolve the challenges. Apologies were extended to the beneficiaries of this programme and indication was given that politically and administratively there was a will to continue to engage national government for an amicable solution to the matter.

Councillors were thereafter reminded to conduct themselves with dignity and in compliance with the Councillor's Code of Conduct for Councillors during the Council proceedings. The Whips of Political Parties were also reminded that it was their responsibility to manage the behaviour of their respective members. Emphasis was then made that when the matter was put to the vote there should be no movement as this affect the voting scores.

Concluding the remarks, farewell message was extended to the Head: Communications Unit, Ms L Khuzwayo whose last day as an employee of eThekweni Municipality was 31 October 2023. Her contribution to the Municipality was commended and she was wished well on her future endeavours.

6. SPEAKER'S REPORT

The Speaker presented his report and highlighted on the following salient features:

Ward Committees
Community/Stakeholder Engagement Meetings
Council Members

Ward Committees

Mention was made that in the month of September 2023, the Speaker reported to Council about the City Administration's plan to improve the functionality of Ward Committees through a turnaround plan that was also circulated to Councillors. The turnaround plan called for oversight visits being conducted by the City Administration and for same to be rolled out in October 2023. It being noted that objectives of the oversight visits were:

- i) To strengthen support provided to the Ward Committees through observing the manner in which the said committee meetings are conducted in ensuring alignment with the Meeting Procedures applicable to the Municipal Council Committees.
- ii) Assist Ward Committee Secretaries with taking notes of issues discussed and assist where there are issues to be pursued by Municipality and provide feedback thereon.
- iii) Ensure that Portfolio Chairpersons submit their monthly reports signed by both the Portfolio Chairperson and Ward Councillor as the Ward Committee Chairperson

Indication was given that prior to the administration team undertaking the Ward oversight visits, briefing sessions were held with respective Ward Councillors with a view to outline the objectives in detail, to unpack the role of the official that was going to be part of the oversight visit and also unpacking the support to be provided as contained in the turnaround plan. It was mentioned that there were three briefing sessions that had since been held with Ward Councillor on the 3rd, 13th and 20th October 2023. The sessions were productive and further provided an opportunity for Ward Councillors to raise challenges relative to the functionality of the Ward Committees. The last briefing was scheduled for 03 November 2023 in preparation for the oversight scheduled for the month of November 2023. Of the 110 Ward Committees, 69 have already been visited and the balance to be concluded in November 2023.

Community/Stakeholder Engagements/Meetings

In noting that one of the Municipality's legislated responsibilities was to ensure that communities are kept abreast of all service delivery matters and discussions taken by the Municipal Council, various platforms were utilised to achieve this. Given this, it was worth noting that the number of reported Ward Councillor community engagements was increasing proving that communities were kept informed on an ongoing basis. Reference was thereafter made on the stakeholder engagement held in Ward 09 in a form of Mayoral Imbizo. At this session, His Worship the Mayor, Councillor Kaunda addressed the community on service delivery matters in that area. The Speaker also convened an engagement on the 20th October 2023 with Amakhosi from the eThekweni Local Traditional House and the focus of this session was on the Amakhosi's participation in the Municipal Council.

Council Membership

Council was reminded that during the meeting held in September 2023, it was reported that the Democratic Alliance (DA) had a PR Councillor's vacancy following the resignation of erstwhile Councillor Ngema. The said vacancy has since been filled by Councillor Thabani B Ndlovu. Councillor Ndlovu was thereafter officially welcomed to Council.

It was further reported that another vacancy has been created in the Municipal Council following the resignation of the erstwhile Councillor of Abantu Batho Congress, Councillor B Gwala. This vacancy was going to be filled once confirmation was received from the Independent Electoral Commission.

In concluding with his report, the Speaker advised that on the 25th October 2023, a By-election was held by the IEC to fill the vacancy in Ward 09 following the demise of the Ward Councillor representing the Democratic Alliance. The election was successfully conducted, and the African National Congress reclaimed Ward 09 and in that regard the newly elected ANC Ward Councillor would be officially welcomed at the next sitting of the Council.

7. APPLICATIONS FOR LEAVE OF ABSENCE

RESOLVED:

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

COUNCILLORS

Councillor J Annipen	:	2023-10-31	Personal Commitments
Councillor J Essop	:	2023-10-31	Personal Commitments
Councillor NBC Godlwana	:	2023-10-3	Indisposed
Councillor DM James	:	2023-10-30	Indisposed
Councillor FN Majola	:	2023-10-31	Indisposed
Councillor DPM Mhlongo	:	2023-10-31	Indisposed
Councillor SB Ngcongco	:	2023-10-31	Indisposed
Councillor MS Nkosi	:	2023-10-31	Personal Commitments
Councillor NZ Ntuli	:	2023-10-31	
Councillor Nowbuth	:	2023-10-31	Personal Commitments
Councillor HP Shozi	:	2023-10-31	Indisposed
Councillor S Singh	:	2023-10-31	Personal Commitments
Councillor AD Snyman	:	2023-10-31	Personal Commitments
Councillor I Syed	:	2023-10-31	Indisposed
Councillor ZN Tshazela	:	2023-10-31	Personal Commitments
Councillor NI Webster	:	2023-10-31	

With the exception of Councillor Beegte who declared an interest on the matter contained in the Report of the Ethics Committee, it was noted that none of the members have declared interest on items appearing on the Agenda.

9. CONFIRMATION OF MINUTES: MEETINGS HELD 2023-08-24; 2023-09-28; and 2023-10-10 (Ordinary); 2023-07-13; 2023-08-15; 2023-08-24; and 2023-10-10 (In-Committee).

Prior to confirming the Minutes, the Speaker brought to the attention of members that there was one set of minutes that was not circulated with the agenda and confirmed that this has since been circulated.

At this stage of the proceedings, the EFF raised a point of order in relation to a matter pertaining to R1.9 billion reported to have been returned to National Treasury because of non-expenditure of same. The Speaker overruled this point of order and indicated that this was going to be covered later as part of Item 14 (Report of the Mayor in terms of the MFMA). The EFF continued to express their views on the matter, indicating that it would not be ideal for them to continue with the proceedings of the meeting when this matter was not being addressed.

Joining the debate, the DA noted a commitment made by the Speaker in terms of the matter being dealt with as part of Item 14; however equally felt that the Chairperson of the Human Settlements and Infrastructure Committee should also not be isolated on the matter in view of the said grant earmarked for infrastructural projects.

The ANC reiterated sentiments shared by the Speaker in terms of dealing with the matter as part of Item 14, citing the Council meetings were governed by the Rules of Order By-law. Therefore, the Council should consider items as contained on the Agenda. However, cognisance was also taken of powers vested upon the Speaker to re-arrange the Agenda, which can then inform the decision to deal with the matter as the first item.

Responding to a comment made by the DA in respect of the involvement of the Chairperson of the Human Settlements and Infrastructure Committee, the EFF stated that the said Chairperson should not be blamed in this regard. They further made a call that the City Manager should be recused when the matter in question is being considered, citing he has vested interest thereon.

In terms of the Rules of Order By-law, the Speaker indicated that the Agenda can be re-arranged and requested His Worship the Mayor to present Item 14. In response to a request made by the EFF that the City Manager be recused from the meeting, the Speaker stated that he was not convinced that there were compelling reasons warranting recusal of the City Manager and affirmed that His Worship the Mayor should be allowed to present his report and remain part of the meeting in his capacity as the Accounting Officer and driving the administrative part of the Council meeting.

At this stage of the proceedings (11h19), His Worship the Mayor assumed a podium to present his report in terms of the MFMA. However, disruption ensued once more with the EFF starting chanting songs. The Speaker intervened reminding the Council that he had honoured the suggestion to re-arrange the Agenda so as to allow the Mayor to present his report and appealed to the EFF to conduct themselves in an acceptable manner. It being noted that despite several plea by the Speaker, disruption by the EFF continued.

At 11h24-12h00, the ANC requested for a caucus break, and this was duly granted.

Presenting report back on the outcomes of the caucus, the ANC advised their focus has been more on housekeeping matters.

Submitting its views, the DA, referring to Section 16 of the Rules of Order By-Law, recommended that the Speaker should consider invoking same given continued disruptions by the EFF having potential to collapse this Council meeting.

Meanwhile, the EFF cited it was not their intention to disrupt the meeting, but that they were mainly requesting that the City Manager be excused only when the matter relative to the alleged forfeiture of R1.9 billion is being considered. The Speaker advised of his position already stated on this matter and allowed His Worship to present the MFMA report.

At this stage of the proceedings (12h10), His Worship the Mayor re-assumed the podium, but disruptions ensued once more coupled with various points of order. The main issue then was the request to obtain copies of the report to be presented by the Speaker. Upon circulating the report electronically, consensus was reached to proceed while awaiting hard copies.

Thereafter, following the exchange of views on procedural matters, His Worship presented the report, the time being 12h33. He commenced by congratulating the National Rugby Team (the Springboks) on their recent victory, winning the fourth Rugby World Cup in France. Also commending the President of the Country for announcing 15 December as Public Holiday to celebrate this victory. In terms of the trophy tour celebrations, His Worship advised that Durban would welcome the Springboks on Saturday, 04 November 2023.

Focusing on the matter at hand, His Worship the Mayor advised that it was unfortunate that misinformation with regard to the state of finances in the City was circulating. Putting matters into correct perspective, His Worship advised that the Municipality had not failed to spend the R1.9 billion conditional grant to repair infrastructure, but that the Council was subsequently informed that National Treasury has issued a circular on strict cost cutting and austerity measures for both National and Provincial government.

Further, that communication was received from the National Department of Human Settlement advising of a Cabinet decision to cut the Urban Settlement Development Grant and the Informal Settlement Upgrading Partnership Grant allocation by R142.4 million in the 2023/2024 financial year. His Worship clarified that this was not only applicable to eThekweni Municipality but that other Metros were also affected. The Council was reminded that over the years, eThekweni Municipality has always achieved a 100% spent on the said grants.

Confirmation was made that the Municipality had applied for the rollover in respect of unspent conditional grants amounting to R1.88 billion and of that amount, R1.5 billion related to the Municipal Disaster Recovery Grant. That the MDRG was only received in March 2023, three (03) months before the financial year end. It being noted that the City was advised by the Department of Co-operative Governance and Traditional Affairs (CoGTA) that a rollover application for the MDRG was not required. However, in August 2023, National Treasury advised of a requirement to apply for grant rollover confirmation being given to the Council that required information has since been packaged in the prescribed National Treasury format.

Councillors were requested to note reasons for the rollover grants as follows:

- The R1.53 billion for the MDRG was only received on 16 March 2023 and National Treasury did acknowledge that the rollover for the MDRG was linked to disaster funding. It being noted that in terms of the grant framework, the Municipality had a period of 12 months to spend the grant.
- The Supply Chain Management processes had to be adhered to in respect of the 700 projects earmarked. That given the various tasks attached to this process it was impractical to spend the grant within a period of three months and to complete projects earmarked.

Given the above, the Council was advised that most of the projects will be implemented through framework contract and 525 projects with work estimate of R1 million and can be completed in less than one month. Furthermore, the Roads Provision was currently implementing six major projects, and these were part of the Reconstruction and Rehabilitation Grant. The construction period for these projects was estimated at 12 months.

The Council was also taken through status of the following:

- **Public Transport Network Grant**
- **Neighborhood Developments Partnership Grant (NDPG)- Public Employment Programme**
- **Programme & Project Preparation Support Grant**

Reporting on the process followed and the current status on the rollover application, His Worship advised that the application was partially approved in respect of R720.9 million and for the balance of R1.164 billion the Municipality has been advised to submit additional representation and engagements are in progress in this regard.

Therefore, the presentation by His Worship clarified that the allegation relating to unspent grant was unfounded. In a nutshell, the points noted arising from the presentation by His Worship confirmed the Municipality has neither failed to spend nor forfeited Grant Funding:

- i) National Treasury has implemented austerity measures to be complied with across the Municipalities. Austerity measures then resulted in the cut of Grant Funding.**
- ii) The Municipality received Municipal Grant Disaster Recovery Grant (MGDR) in the amount of R1.5 billion. However, the MGDR was received late towards the end of the 2022-23 financial, on 16 March 2023 to be precise, which was three (03) months before wrapping up the financial year activities. It was then late to commence and finalise procurement processes to appoint service providers to handle the recovery projects. On the other hand, the Grant condition stipulated projects duration of twelve (12) months.**
- iii) Initially, the Department of Cooperative Governance and Traditional Affairs advised that the Municipality was not required to submit application to National Treasury for the rollover of the MGDR given time constraints associated with projects commencement.**
- iv) However, in August 2023, National Treasury advised of a need to make rollover application, and the Municipality subsequently complied accordingly. As such, partial Grant Funding has since been approved on 19 October 2023, and this to be rolled over accordingly. At a request by National Treasury, the Municipality is to submit a second application for the release of the remainder of funding.**

With the matter of grant funding having been concluded, His Worship took the opportunity to report on other Municipal achievements, and in his concluding remarks, reported on progress made by Ratepayers to take advantage of the Debt Relief Programme, advising of an overwhelming response received in terms of customers signing payment arrangements and that concrete update in this regard would be presented at the next meeting of the Finance Committee.

Regarding the Westville Ratepayers Association taking the Municipality to court substantiating their boycott against payment of rates, His Worship advised of the High Court ruling in favour of the Municipality, wherein the Municipality has been interdicted for disconnecting services of customers who have joined non-payment of rates boycott. The Court ruling meant the Municipality can proceed implementing credit control sanctions in terms of the Credit Control and Debt Collection Policy against the Westville rates non-payment cases.

(At the conclusion of the Mayor's speech, (12h51-13h20), the EFF requested Caucus which was duly granted.)

Presenting report back, the EFF advised this was their opportunity to interrogate presentation by His Worship in preparation to debate meaningfully. The ActionSA then requested that Councillors be also furnished with a copy of correspondence submitted by the Municipality to National Treasury to debate meaningfully. This request was echoed by the EFF as well as the DA. In response, it was advised that administrative processes were still underway with National Treasury and with concrete submission to be presented upon concluding the matter.

In making their submission relative to the Mayor's report, the EFF expressed that the report appears misleading since the Municipality has actually failed to spend grant funding. In this regard, the EFF expressed concerns at the trend of delaying signing reports for consideration by the Support Committees.

Also joining the debate, the IFP cited poor planning and with the report by the Mayor regarded not convincing. Meanwhile, the ActionSA emphasised the importance of the Mayor taking accountability in this regard.

(At this stage of the proceedings (14h22-15h20), the meeting adjourned for a lunch break.)

Upon return and continuing with the discussion, several Parties including the APF; ADEC; DLC; and the PRM; shared similar sentiments that apparently grant funding is not spent expeditiously thus compromising the Municipality's service delivery mandate. Reference also being made to challenges at hand, namely, water and sanitation; Public Employment Programme funding shortfall; allocation of funding for rehabilitation of R293 Townships; and addressing service delivery issues surrounding Ingonyama Trust.

Concluding discussion, the ANC appreciated explanation provided which also corrected the figure of R1.9 billion and circumstances surrounding grant funding, as well as areas of cooperation with National Treasury and confirming the Municipality still has access to grant funding. Overall, the explanation was considered satisfactory and allaying fears by other parties.

Thereafter, in view of the debate on grant funding having lasted for a prolonged period, the Speaker requested Council to prioritize compliance matters and then defer other items to a meeting to be reconvened in the near future. Accordingly, the following two (02) items were identified as having compliance deadlines:

- Page 11 (Item 2)
- Page 43 (Item 7)

In an attempt to resume discussion around the above selected items, the EFF resumed with disruptions reiterating their demand to remove the City Manager from this meeting. On the other hand, the Speaker was of the view that the City Manager should remain in the meeting as the Accounting Officer who is also responsible to co-preside over the Council meeting from the administrative perspective.

The Party continued with its altercations preventing the meeting from proceeding. The Speaker once more pleaded with the Party for a long time to cooperate and allow the City Manager to proceed with the meeting, it being noted the EFF started disrupting the meeting at its commencement at 10h00 in the morning, and even this afternoon doing the same thing and with altercations continuing for a prolonged period. Eventually, the Speaker, in accordance with powers vested upon him, ruled that the Security Management Team should remove the EFF members. This then resulted in a fight between the EFF and the Security Management Team thus causing great commotion in the plenary venue. However, the Party was ultimately removed for the meeting to proceed.

Prior to discussing the two items, the ActionSA, supported by other Political Parties, raised the aspect of Council members having been exposed to safety risk by allowing armed Metro Police to form part of the Team that removed the EFF from the plenary venue. They narrated the incident could have been catastrophic in the event one person disarming police. The Speaker was then requested to investigate the appropriateness of allowing armed Metro Police to access the meeting venue for the EFF removal.

(At this stage of the proceedings, the time being 16h56, the DA requested time to Caucus. At the permission of the Speaker the DA caucus was coupled with a comfort break)

Presenting report back, the DA referred to prolonged unacceptable behaviour displayed by the EFF in today's Council meeting, and thereafter requested the Speaker to invoke the Code of Conduct for Councillors to handle the matter and report back accordingly. Further, that the issue of armed Metro Police accessing the plenary venue be investigated and outcome thereof to be submitted to the Council. On the issue of adjourning the meeting as raised by the DA, the Speaker advised that a decision has already been taken in this regard, hence, the two items selected and to thereafter adjourn and reconvene some other day to conclude the remainder of the Agenda items.

Thereafter, the meeting reverted back to consider items prioritised. 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.

10. MATTERS ARISING

This was not dealt with.

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

The following questions contained in the Main Agenda were **DEFERRED** to the Council meeting to be held on a date that was still to be announced.

11.1 Questions submitted by Councillor BD Naidoo:

The Umkomaas Community is up in arms regarding the failure of the eThekweni Municipality in ensuring that residents are not in use of the Umkomaas Community Hall as these facilities have been condemned by the City Engineering Department.

In light of the above, kindly furnish responses to the following concerns:

1. **When was the Umkomaas Community Hall condemned by the City Engineering Department?**
2. **Currently the Community Hall is in a despicable state, and not suitable for use. What alternance provisions has the Municipality made as an alternative venue as this is the only such facility in Umkomaas?**
3. **The Umkomaas Community Hall has currently been invaded by vagrants, some of whom are presently occupying the premises. What actions have been taken to prevent such illegal occupation of this Municipal building?**
4. **The Community Hall has also been vandalized. Infrastructure such as doors, windows, electricity fittings, roofing amongst others have been stolen.**
5. **Air conditioners have been removed and burnt outside the premises for copper by vagrants since the condemnation of the building - why has the Municipality not posted Security Personnel to protect its building?**
6. **Was the Department responsible for its administration, aware of the current status? If yes, what measures have been taken to assess the damages at the hall and what is the current cost of the damages? If not, why has the Department not intervened in the matter?**
7. **What plans (if any) has the Department made to rebuild the Community Hall with all its necessary amenities and facilities and what will be the estimated cost for such project?**
8. **What will be the estimated time for the building project to be ready for usage by the Community?**

DEFERRED

11.2 Questions submitted by Councillor M Billy:

EThekweni Electricity Department has been alleged to have experienced serious contract management challenges affecting important service delivery aspect. Considering the above mentioned I request for the following questions be answered:

1. **Contract: E9422:**
 - (a) **When was it awarded?**
 - (b) **What was the contract value and duration?**
 - (c) **When and why was it cancelled, terminated or stopped?**

- (d) What was the overall spend on this contract at the time of its conclusion, termination and stopped?
- (e) Was there any investigation done on this contract?
- (f) If yes, when was it started and what is the status of the investigation?
- (g) If investigation has been concluded, what was the outcome?

2. Contract: E9412:

- (a) When was it awarded?
- (b) What was the scope and value of the contract?
- (c) Has it been concluded?
- (d) If it has been concluded, what was the overall spend on it?
- (e) Was there ever internal or external investigation conducted on this contract?
- (f) If yes, what is the status or the outcome of that investigation?

DEFERRED

11.3 Questions submitted by Councillor J Singh:

In July 2022, our President announced grant of R1 534 785 000.00 for Municipal disaster. However, following the floods of April 2022, to date, various municipal infrastructure damaged during the floods have not yet been repaired.

In January/February eThekweni presented a business plan for how the money was to be spent.

As at 20th July 2023, 0% of the funds were utilised.

- 1. What phase are we in regarding the grant?
- 2. Have Service Providers been allocated?
- 3. What are the timeframes for completion?
- 4. What amount has been spent already?
- 5. Can we request feedback on a monthly basis on the progress of projects?
- 6. Can we have a breakdown of the allocations of repairs to be completed??
- 7. Could we get supporting documents for the entire amount allocated to the Department of Co-operative Governance and Traditional Affairs (COGTA)?

DEFERRED

11.4 Questions submitted by Councillor TM Mthethwa:

The total number of Cleansing and Solid Waste (CSW) Community-Based Contractors (CBC's) responsible for waste collection and street cleaning in some parts of the City that were appointed by awarded contractors in WS.6993, WS.6994, WS.6995, WS.6996 and WS.6997 were 398 (three hundred and ninety eight) and those appointed

by awarded contractors in WS.7373, WS.7374, WS.7375, WS.7376 and WS.7377 were 456 (four hundred and fifty six). This is the tender requirement and Mentorship Programme. Millions are spent on this initiative and the City must ensure value for its money.

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

1. **What was the approved budget for each of the above contracts?**
2. **How much was paid in total to each contractor between the period of 2018 to 2023?**
3. **How much was paid to each Community-Based Contractor (CBC) by each of the above contractors and when were the payments made? Please breakdown payments per CBC.**

DEFERRED

12. REPORTS:

Due to time constraints, the Speaker advised that only two items would be considered at this meeting in view of the statutory and compliance requirements.

FIRST REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2023-10-24)

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

Note:

A third member of the DA joined the meeting after the Support Committee Reports have already been dealt with, hence, the reflection of two members of this Party on matters decided through a vote.

1. REPORT OF THE COMMUNITY SERVICES COMMITTEE: MEETING HELD 2023-10-18

(Page R1)

- 1.1 Request for Authority for the Musgrave Library to Support Electricity Inverter Campaign and Subsequent Acceptance of Donation of the Inverter to Become Asset of the eThekweni Municipality (11/1/3):
(Page 52: Community Services Committee Supp Agenda 2023-10-18)

The Musgrave Librarian was approached by Orchard on 24 company, acting on behalf of Nestle Bar One, to establish whether the Library would be interested and willing to participate in a campaign to support students from the surrounding Universities using this Library to study, by keeping the lights on during loadshedding. As part of this campaign, Nestle Bar One intends installing in the Musgrave Library a solar inverter/generator valued at R200 000.00 (Two Hundred Thousand Rand), and which equipment would become property of the eThekweni Municipality after the campaign, and at no cost to the Municipality.

The only return on this investment required by Nestle Bar One is the opportunity to do temporary branding for an approximately 3-month period, by displaying the words ***“Energy brought to you by Bar One.”*** In addition, to acknowledge donation after the campaign, a request has been made by Nestle Bar One for a permanent branding through erecting a smaller plaque with similar words ***“Energy brought to you by Bar One.”*** on the Musgrave Library wall.

The Librarian having considered submission by Nestle Bar One, considered it wise to accept the offer, pointing out that Musgrave Library is the busiest Lending Library within the Municipality, and drawing attention to the fact that with the Library located in the basement area it becomes very dark when power goes off.

That, currently the Library is temporarily vacated during loadshedding and power cuts as there is no natural light, thus becoming a challenge accessing Library resources under this circumstance. Unfortunately, this condition adversely affect the ability by the Library to continue serving the public, including tertiary students when power challenges are experienced.

With the Committee appreciating this great initiative, support was granted for the Musgrave Library to participate in this Nestle Bar One Campaign and, accordingly,

COMMITTEE RECOMMENDS:

- 1.1.1 That authority be granted for the Head: Parks, Recreation and Culture to facilitate participation by the Musgrave Library in the campaign run by Orchard on 24 on behalf of Nestle Bar One, that of installing in the Musgrave Library the electricity inverter/generator valued at R200 000.00 (Two Hundred Thousand Rand) to enable the Library operations to continue even during loadshedding and power cuts, thus providing business continuity for the public and students from the surrounding Universities to access services.
- 1.1.2 That, subject to the approval of .1 above, authority be granted for the Head: Parks, Recreation and Culture to allow temporary branding by Nestle Bar One for a period of approximately 3 months, which entails displaying on the Musgrave Library the words ***“Energy brought to you by Bar One.”***
- 1.1.3 That, given the undertaking by Nestle Bar One to donate the Inverter/Generator to become property of the eThekweni Municipality on a permanent basis, authority be granted for the Head: Parks, Recreation and Culture to accept this donation and, as part of the condition of the donation, grant permission for permanent branding by Nestle Bar One, through erecting a smaller plaque on the Musgrave Library wall with similar words ***“Energy brought to you by Bar One.”***

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced

2. REPORT OF THE FINANCE COMMITTEE: MEETING HELD 2023-10-18

(Page R3)

2.1 Budget Statement Report for the Quarter Ended 30 September 2023 (7/1/4):
(Page 52: Finance Committee - Agenda 2023-10-18)

The salient features of the report were presented relative to the actual operating revenue of 100% of the year-to-date budget, with a variance of 0%, and revenue generated sitting at 27,4%. The actual operating expenditure was reported as a percentage of year-to-date budget figure of 93% with a variance of -7%, and the operating expenditure spent to date sitting at 23,4% when compared to the original budget. The capital expenditure was reported to be sitting at 47% of the budget and with a variance of -53%. The capital year to date spent was reported to be sitting at 7, 3%. The cash collection of 101.25% was considered higher when compared to same period the previous year (93.82%).

Thereafter, the attention of the Committee was drawn to water and electricity distribution losses and the amounts thereof not being quantified. Meanwhile, concern was expressed over reported forty (44) days cash on hand, and measures to be put in place to improve this status quo being queried.

The issue of rising outstanding and uncollected debts from Parastatals, Tansnat, Ingonyama Trust and Government Departments was further cited as a concern. That debts owed the Municipality by any Party be paid, a submission being made that Councillors and Staff are not permitted to fall into arrears on their Municipal Bills and this being a punishable offence in terms of the respective Code of Conduct applicable to these Parties.

The other matters raised arising from this Report are recorded as follows:

- Emphasis put that water meters be read timeously by the relevant Unit;
- That the processing of property Rates Clearance Certificates be fastracked, as well as addressing and resolving property valuation objections;
- Concern over reported financial ratio of 1,45% being below the standard norm of 8%;
- That expenditure for repairs and maintenance should be in line with the Asset Management Plan and Assets Age Analysis; and
- That Non-Sales of water and electricity due to prolonged outages, coupled with poor turnaround timeframes for repairs and/or restoration result in revenue reduction.

On the issue of cash on hand, it was then reported that interventions are being implemented to effect the necessary improvements, the attention being also drawn to the implementation of the Cost Containment Policy and monitoring thereof. Regarding the property Rates Clearance Certificate process, the delays were attributed to the delays in appointing the Evaluation Appeals Board by COGTA, mention being made then that this matter has since been resolved it being anticipated that positive progress will be seen.

Speaking on revenue collection measures, the Committee was informed of attempts being made and with payments expected from the Government Departments concerned by end of October 2023, and that engagements were at an advanced stage in pursuit of Transnet to settle its debt of R275 Million. Confirmation was given that disconnections still remain a last resort to prompt payments of outstanding debts.

That for Ingonyama Trust Board debt, COGTA serves as a facilitator exploring options to address the matter. Meanwhile, for Tansnat, the finalisation of the court case is still pending, and the outcome thereof will determine a way forward, and with the Council to be updated accordingly in this regard. For Staff and Councillors on arrears, the matter was being dealt with the City Manager and the Speaker of Council respectively, with options available being explained. That upon exhausting all options the last resort becomes the docking of salary to settle outstanding Municipal bills.

Lastly, update was given on progress to migrate the meter reading function for water and electricity under the Revenue Management Unit. That, apparently the process is moving at a snail pace due to ongoing engagements with Labour taking longer than anticipated.

The Committee continued with in-depth analysis of the performance and financial position of the Municipality, with responses provided to give perspective and status applicable. Thereafter, areas needing improvements were noted as having been raised, as well as the interventions being implemented to improve certain aspects.

Thereafter, the Committee undertook to continue applying its mind to assess performance and financial information of the Municipality with a view to achieving positive progress, and on this basis,

COMMITTEE RECOMMENDS:

- 2.1.1 That the Budget Statement report for the month ended 2023-09-30 and the supporting documents, submitted by the City Manager as per his report dated 2023-10-13, in compliance with Section 71 and Section 52 (d) of the Local Government: Municipal Finance Management Act No. 56 of 2003 (MFMA), read together with Regulations Section 28 of the Municipal Budget and Reporting Regulations, and in terms of Government Notice 32141 dated 17 April 2009, on the implementation of the budget and financial affairs of the Municipality and its entities, be noted.
- 2.1.2 That, in compliance with Section 32(2) of the MFMA, Council notes Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFWE) incurred in the month of September 2023, as detailed under Section 10 of the Budget Statement Report.
- 2.1.3 That the Municipal Council refers the UIFWE referred to in .2 above to the Municipal Public Accounts Committee (MPAC) for investigation with a view to achieving informed outcome whether recovery or write-off of the said expenditure is permissible as per the provisions in terms of Section 32(2)(b) of the MFMA, and that the MPAC report back to the Council the outcome of its investigations.

Commencing the debate, the DA expressed that at the Finance Committee level issues relative to water loss; damaged infrastructure; unread water meters; as well as outstanding debts; have been raised continuously. That surprisingly, some

of the Councillors and the Officials owe the Municipality exorbitant amounts and that this was unacceptable. Further, the DA reiterated challenges emanating from lack of repairs to the City Infrastructure, also outstanding debt by the bus operator, Tansnat, which is not handled such as to reach finality.

Joining the debate, the ActionSA shared similar sentiments about adverse effects of unresolved water loss, and this being viewed to display lack of effective leadership within the Municipality. That estimated meter readings are considered not acceptable as this sometimes come at a huge bill to the disadvantage of ratepayers. The reason for outsourcing meter reading was queried, it being hoped that insourcing of this service could yield desired results. Another issue of concern involved ongoing outstanding debts by the government departments and that of Ingonyama Trust, that this matter was not being resolved and ongoing engagements are also not yielding any positive results.

The ADEC could not over-emphasize negative impact as a result of water loss, a view being expressed that the Municipality needed to implement sound approach to mitigate such loss. Also referring to fruitless and wasteful expenditure crippling the City. With cash on hand reported at 44 days regarded a cause for concern.

Also commenting, the ANC expressed that improvements being implemented to curb water loss should be recognized. It being advised that Plumbers have since been deployed to various Wards to address water leaks and other related issues. On the issue of electricity, it was mentioned that a process of disconnecting various buildings owing the Municipality has commenced. With regard to Ingonyama Trust issues, it was advised that the Department of Cooperative Governance and Traditional Affairs has since been tasked to speed up the discussions with Amakhosi.

The recommendations of the Executive Committee were thereafter, NOTED.

2.2

EThekweni Municipality Public Tender Awards Report for the Month Ended 30 September 2023 (9/1/3):

(Page 228: Finance Committee - Agenda 2023-10-18)

In discussing the Report on tenders awarded by the Municipality during September 2023, the Committee noted the awards constituted a total value of R301 981 058.62 (Three Hundred and One Million Nine Hundred and Eighty-One Thousand and Fifty-Eight Rand Sixty-Two Cents).

Thereafter, the Committee reiterated its concerns over what is regarded as excessive use of Section 36 awards, a view being submitted that this also represents exclusion of other potential service providers given limitations in quotations sourced. However, in response thereon, explanation was given that Section 36 serves as an interim award in the event of pressing service delivery needs and pending finalisation of the normal tender process for the tender issued. Confirmation being given that the Section 36 approach is permissible in terms of applicable legislative prescripts. That where elements of abuse are suspected the relevant structures of the Municipality are able to uncover same during investigations conducted.

On a positive note, the Committee appreciated noticeable increase in the number of tenders allocated to vulnerable groups, including youth and women. Furthermore, the 60% increase in local purchases was acknowledged and greatly commended. A view being submitted that more efforts be put in an attempt to stretch this target to 80%.

Accordingly,

COMMITTEE RECOMMENDS:

- 2.2.1 That the public tender awards by the City for the month of September 2023, inclusive of awards made in terms of Section 36 of the Supply Chain Management Regulations, as contained in the report by the Acting Head: Supply Chain Management dated 2023-10-09, be noted.
- 2.2.2 That it be noted that where information is available for Wards and registration numbers, it is included in the report, as information used to compile the report is taken from submissions made by the Units.
- 2.2.3 That the Finance Committee calls for additional information on individual awards, where it deems appropriate and necessary to play its oversight role.
- 2.2.4 That the City Manager reserves the right to investigate the awards with a view to taking disciplinary, criminal and recovery actions where wilful and negligent violation of the Supply Chain Management Policies and the Municipal Finance Management Act provisions are observed.
- 2.2.5 That the City Manager shall table a report to the Committee relative to the disciplinary, criminal and recovery actions taken, it being recorded that the City Manager can only respond when the reports are available.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

- 2.3 Investment Report for the Month Ended 30 September 2023 (7/11/4):
(Page 281: Finance Committee - Agenda 2023-10-18)

The Committee noted funds invested by the eThekweni Municipality in different financial institutions represent a total amount of R8 444 829 000.00 (Eight Billion Four Hundred and Forty-Four Million Eight Hundred and Twenty-Nine Thousand Rand), at an average rate of return on investments of 9.06%. Also, that the Municipality has an overdraft facility of R682 000 000.00 (Six Hundred and Eighty-Two Million Rand) and unutilized Capital and Operational Grants as at the end of September 2023 is reported to be R2 85 000 000 000.00 (Two Billion and Eighty-Five Million Rand). The days cash on hand excluding grants sat at forty-four (44) days.

In noting the state of investments as recorded,

COMMITTEE RECOMMENDS:

That the report on investments of the eThekweni Municipality as at 2023-09-30, which records the total funds invested in financial institutions to be in the amount of R8 444 829 000.00 (Eight Billion Four Hundred and Forty-Four Million Eight Hundred and Twenty-Nine Thousand Rand), at an average rate of return on investment of 9.06%, as submitted by the City Manager, in line with the requirements of the Municipal Cash Management and Investment Regulation of the Local Government: Municipal Finance Management Act, No.56 of 2003, be noted.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

2.4

Progress Report on Proposed Municipal Borrowing of R1.5 Billion for Capital Projects (7/3/1/1/2):

(Page 289: Finance Committee - Agenda 2023-10-18)

Reference was made to the Municipal Council decision of 31 May 2023, that of approving loan borrowing in the amount R1.5 Billion thus supplementing budget for capital projects. In presenting progress in this regard, the Committee was informed that eThekweni Municipality is in a process of issuing a Request for Proposal (RFP) inviting lenders to provide annuity loan, as part of long-term.

It was advised that the Municipality would utilise a combination of bilateral long-term loans from Commercial Banks, Development Finance Institutions as well as bonds through the Domestic Medium-Term Note Programme. That a split between these methods of funding will be determined using debt capital market sentiments based on investor interest. Further, that a combination of funding instruments in appropriate proportion would ensure that the planned R1.5 Billion loan borrowing is met accordingly.

The proposed brief timetable for the 2023/2024 long-term borrowing should be noted as recorded below:

No.	Action	Timeframe
1.	Make public the Information Statement	13 October 2023
2.	Finance Committee to note issue of Request for Proposals	18 October 2023
3.	Council to note issue of Request for Proposals	31 October 2023
4.	Deadline for receipt of comments from public	24 November 2023
5.	Advertise Requests for Proposals	01 November 2023
6.	Closing date for receipt of proposals	30 November 2023
7.	Council in-principle approval of the proposed debt	February 2024
8.	Written communication to National Treasury and KZN Provincial Treasury of the proposed debt	08 March 2024
9.	Deadline for receipt of comments from National Treasury and relevant Provincial Treasury	05 April 2024
10.	Council final approval of the proposed debt	May 2024
11.	Signing of loan agreement/s and draw of loan funding	June 2024

As per the provisions of the Act, the RFP inviting financial institutions to submit proposal for the provision of debt for annuity long-term loan will also be advertised in local newspapers and in the Municipality's website, as per the requirements in terms of Section 46 (3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, which provides that the Municipality may only incur long-term debt if the Accounting Officer of the Municipality has complied with the following:

- (a) Making public the Information Statement setting out particulars of the proposed debt, including proposed debt amount; purpose for which debt is to be incurred and particulars of any security to be provided; and
- (b) Inviting the public, National Treasury and the Provincial Treasury to submit written comments or representations to Council in respect of the proposed debt.

To effectively satisfy legalities surrounding the proposed borrowing, emphasis was put that the Finance Unit will work closely with the Legal and Compliance Unit to ensure proper scrutiny of loan agreement and negotiation of terms and conditions favourable to the Municipality.

Upon an enquiry on the necessity of making further borrowings, it was emphasised provisions for the capital projects borrowing is informed by Section 46 of the Local Government: Municipal Finance Management Act No. 56 of 2003, and that the Municipality is in compliance therewith and eligible to access loan to successfully respond to capital projects demands.

In view of the foregoing,

COMMITTEE RECOMMENDS:

That Council notes that eThekweni Municipality will proceed to issue Request for Proposals (RFP), inviting lenders for the provision of annuity loan, as part of long-term debt to finance the Municipality's Capital Budget in the 2023/2024 financial year, as approved within the Medium-Term Revenue and Expenditure Framework (MTREF).

Capital Expenditure:

On 31 May 2023, Council approved the Capital Budget for the three-year MTREF period as follows:

Table 1 Capital Budget:

2023/2024 RM	2023/2024 RM	2024/2025 RM
8,143	5,879	5,880

Table 2 Capital Budget Funding:

Funded as follows	2023/2024 RM	2024/2025 RM	2025/2026 RM
Grant Funding	4,674	3,643	3,645
Internal Funding	1,969	1,236	1,235
External Funding	1,500	1,000	1,000
TOTAL	8,143	5,879	5,880

In Table 2 above, it is evident that the Municipality is required to raise a Long-Term Debt of approximately R1,5 Billion from the external funding sources for the financial year 2022/2024 and then R1 Billion for the 2024/2025 and 2025/2026 financial years.

The raising of external funding will ensure that critically needed expenditure continues and service delivery programme is not disrupted or postponed. The following departments will use the new borrowings to fund their Capital expenditure, as depicted in Table 3 below:

Table 3 Capital Budget Funding:

Department	CAPEX Budget 2023/2024 '000
Engineering	168,040
EThekweni Transport Authority (ETA)	2,000
Water	244,646
Sanitation	354,017
Solid Waste	195,890
Electricity	166,946
Economic Development & Planning (EDP)	42,220
Community & Emergency Services (CES) - Health & Social Services	191,366
Finance - City Fleet & Bus Operations	133,731
Office of the City Manager (OCM) - Information Management	1,144
TOTAL	1,500,000

Financial Implications:

After careful evaluation, taking up a new borrowing 2023/2024 will be affordable and will not negatively impact the sustainability of the Municipality as indicated Table 4 below:

Table 4 Gearing and Debt Service Cost Ratio:

	FY 2023/2024	FY 2024/2025	FY 2025/2026
Gearing Ratio (National Treasury Benchmark of max 45%)	19.7%	18.0%	16.4%
Debt Service Cost (National Treasury Benchmark between 6% -8%)	3.8%	3.9%	3.5%

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

- 2.5 Quarterly Report on Withdrawals from the Municipal Bank Account, dated 10 October 2023, in terms of the Municipal Finance Management Act (11/1/2):
(Page 294: Finance Committee - Agenda 2023-10-18)

Accordingly,

COMMITTEE RECOMMENDS:

- 2.5.1 That the report on withdrawals from the Municipal bank account as at 30 September 2023, submitted in terms of Section 11(4) of the Local Government: Municipal Finance Management Act No. 56 of 2003, be noted, it being recorded that the withdrawals relate to the following:

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

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

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

2.6 Quarterly Report – Municipal Standard Chart of Accounts (MSCOA) Programme (10/2/2/):
(Page 295: Finance Committee - Agenda 2023-10-18)

It was recalled that the Municipal Regulations on Standard Chart of Accounts (MSCOA) was gazetted by the Minister of Finance on 22 April 2014, to give effect to Section 216 of the Constitution of the Republic of South Africa. The MSCOA Regulations came into effect on 01 July 2017 and all Municipalities as well as Municipal Entities were required to comply with the Regulations. Council noted the legislated requirements for the implementation of MSCOA and approved the MSCOA implementation at its meeting held 02 February 2015.

In the above regard, the Municipality is required to adopt the MSCOA roadmap, in compliance with the MSCOA Regulations. The intention is to establish an Integrated Enterprise Resource Planning System. To this effect, Circular 80 of the Local Government: Municipal Finance Management Act No. 56 of 2003 was issued to specify minimum business processes and systems requirements to ensure MSCOA compliance and address business process requirements across the entire Municipality's financial management accountability cycle. The MSCOA Roadmap was adopted by Council at its meeting held 03 February 2023.

Further background being given that National Treasury has contracted an External Auditor to independently review the MSCOA implementation within the Municipality and subsequently issue MSCOA Compliance Audit Report. It being noted that the Municipality is not required to commit to any timeframes in the external audit report however has to incorporate the findings, where considered applicable, into the MSCOA Road Map and 2022/2023 MTREF, thereafter assign responsibility to the resources as well as allocate timeframes as per the Municipality's own processes.

In acknowledgement, the Committee noted summary of critical recommendations made on the report and which have been factored into the MSCOA Roadmap for Municipalities to ensure the following:

- (a) Provision of a system functionality to record and track resolution of both internal and external audit findings as well as risk registers. Embed consequence management process in the systems or tools;
- (b) Institute a systematic model to manage controls around the audit information flow;
- (c) Engage system developers to facilitate integration between Corporate Governance and the budgeting module;

- (d) Consider developing the Municipal Manager dashboard to systematically feed off the subsystems with an alerting system for early warning on deviant work focusses;
- (e) Provide section in E1 or EMPA to capture the GDS and SDF. Allow report templates and linkage of this framework to the IDP and SDBIP to allow for project implementation, financial reporting, and monitoring;
- (f) Provide for seamless publishing of budget to the website to enable real time changes for transparency to the public.
- (g) Provision of system functionality that allows generation of annual report that can be edited on certain fields.
- (h) Provide business intelligence reporting tool to allow for the extraction of the A, B and C schedules for NT purposes.
- (i) Provide all mSCOA versions on the system for view to users in the Budget Department.
- (j) Allow internal report templates for other stakeholders to simplify decision-making processes.
- (k) Train Municipal staff to be able to generate schedules on their own to reduce reliance on external Vendors.
- (l) Training of staff to ensure ability to access various levels of mSCOA chart versions.
- (m) Corrections of changes in the chart should be done by the Municipality such as migration of data from old versions to new version strings.
- (n) Provide for scenario analysis within budget module and decision-making dashboard. Various assumptions and externalities can be applied to see shift in scenarios and decisions on the dashboard or budget module.
- (o) Provide validation rules program file to validate extract files before submission to National Treasury.
- (p) Train Municipal staff to be able to run validations on their own.
- (q) Correct report template for C schedule and ensure all supporting schedules are populating accurately.
- (r) Map accounts to correct report parameters for supporting schedules to populate.
- (s) Upload information when reports are due and ensure the correct financial year is selected.
- (t) Provision for validation of data to ensure files are uploaded with accurate records.
- (u) Develop and institute integration requirements between the general ledger and the payroll systems.

Thereafter, the Committee noted detailed progress report of the MSCOA Programme, update report on the roadmap elements and further incorporation of audit recommendations made by the National Treasury. It being further noted that should the Municipality not comply with the MSCOA Regulations, the National Treasury can withhold the Municipality's Equitable Share allocation as prescribed in Section 38(1) (b) of the Local Government: Finance Management Act No. 56 of 2003. Further, that non-compliance with the legislation will negatively impact audit opinion of the Municipality.

With the Committee acknowledging that the anticipated date for the Municipality to be MSCOA Compliant is June 2024,

COMMITTEE RECOMMENDS:

That Council notes progress to date on compliance requirements pertaining to the Municipal Standard Chart of Accounts (MSCOA) Programme; and further notes the recommendations made by the National Treasury through the external Audit report which have been incorporated into the MSCOA Roadmap and the 2022/23 MTREF budget, where applicable.

MSCOA Progress:

Sub-process	Estimate Timeframe	Status
Corporate Governance		
Performance Management System	Dec 2023	<ul style="list-style-type: none"> Sample report has been reviewed and PME has provided feedback. Requirements for the reports have been documented and signed off, to be developed after the SCM project has been completed.
Municipal Website	Compliant	<ul style="list-style-type: none"> There have been engagements with National Treasury and NT agreed that in terms of Municipal Website process we are compliant.
Document Management	Compliant	<ul style="list-style-type: none"> Transactional systems (including JDE system) are also compliant in terms of document management. Other upcoming systems will also incorporate document management system requirements.
Reporting Mechanisms	Dec 2023	<ul style="list-style-type: none"> There is a contract in place for Data and Analytics. However, reporting requirements for MSCOA listed sub-processes will be determined continuously as per each sub- process rollout. E.g.: Revenue management related reports integration to JDE etc.
Internal, External Audit	June 2024	<ul style="list-style-type: none"> Tender spec finalized. Awaiting submission for Bid Specification Committee.
Municipal Budgeting and Planning		
Main Budget	June 2024	<ul style="list-style-type: none"> JDE as a core financial system is fully compliant. However, to achieve full compliance on the budgeting module, this requires all other sub-systems/3rd party systems (including billing system, HCM and CRM) to be compliant as well.
Revenue	June 2024	<ul style="list-style-type: none"> Tender was advertised. Evaluation is currently in progress and should be completed by October 2023. Estimated timeframes for an award is January 2024.
Human Resources and Payroll	Dec 2023	<ul style="list-style-type: none"> Tender was advertised. Evaluation process is complete. Bid Evaluation process is currently in progress. Estimated timeframes for an award is December 2023.
Financial Accounting		
General Ledger	June 2024	<ul style="list-style-type: none"> The general ledger functions as available on JDE are mSCOA compliant. However, overall compliance is dependent on the integration of other sub systems such as RMS, Asset management etc.
Accounts Receivable	June 2024	<ul style="list-style-type: none"> The accounts receivable module within the JDE system is mSCOA compliant however it is not integrated with the sundry system.
Accounts Payable	June 2024	<ul style="list-style-type: none"> The accounts payable module within the JDE system is currently mSCOA compliant. However, the outstanding items are an interface to the Loan Register, Investments, Interface to SARS e-Filing and Insurance Claims. These will be dependent on the revenue management system.
Costing and Reporting		
Costing	Dec 2023	<ul style="list-style-type: none"> Compliant on JDE costs module. However, some tariffs are sitting on other systems e.g., Payroll data is seating in Payspace system, electricity tariffs are sitting on Ellipse system. These systems are interfaced with JDE system. Water department Is compliant with this functionality.
Reporting	June 2024	<ul style="list-style-type: none"> The financial system is compliant in terms of the general ledger and once our subsystems are fully MSCOA compliant and integrated into core financial system all reporting will be done directly from the core financial system.

Sub-process	Estimate Timeframe	Status
Project Accounting		
Project Creation and Planning	Dec 2023	<ul style="list-style-type: none"> All projects in the budget are derived from the IDP as per MSCOA requirements. The SDBIP will sit directly on top of this to measure project performance. SDBIP component is live. The city also utilizes IDP Budget module to budget for its capital and operating requirements, which includes budgeting for repairs and maintenance. Other components are dependent on the Asset Management module project.
Project Management Module & Health and Safety	June 2024	<ul style="list-style-type: none"> Adoption of the FIDPM Framework by Council. CIC supported implementation of the FIDPM and CIDMS Requirements gathering process to proceed afterwards based on the framework.
	June 2024	<ul style="list-style-type: none"> Health and safety requirements will be included on the Project Management module.
Procurement Cycle: Supply Chain Management, Expenditure Management, Contract Management and Accounts Payable		
Supply Chain Management and Inventory	Dec 2023	<ul style="list-style-type: none"> Vendor Portal and CSD Integration is 100 % Live. Acquisitions & SSS Enhancements (Development) the Business Requirement Specification completed 100% and technical document is still in progress. Tender Management: BRS completed (Migration) - Development and testing is in progress and will be completed by end Nov 2023. Demand Management - (Development) Business Requirement Specification 100%. Development is 75% complete. Supplier Performance Management – Business Requirement Specification 100% complete.
CRM (Oracle CX)	Dec 2023	<ul style="list-style-type: none"> Fault Process handling process has been developed, and currently going through testing and quality assurance stage. The status is seating at 55% for this process. The following sub-projects will continue in sequence after Fault Process has been completed: <ul style="list-style-type: none"> Enquiries Process Complaints Process Service requests Process
Full Asset Life Cycle Management including Maintenance Management		
Full Asset Life Cycle Management	June 2024	<ul style="list-style-type: none"> A benchmarking process for assessing different EAM systems including (Ellipse and CAM's as currently in use at EThekweni) was conducted to ensure that mSCOA compliance and functional capability of the two systems as per the ETK EA Policy were met. During the benchmarking, the implementation costs comparison and functional capabilities of the two systems was conducted. The previously intended Asset Management tender for the implementation of CAMS is currently at BEC as awaiting the ICT Strategic decision support for either to cancel and follow the outcome of the benchmarking report or continue in order to avoid a probable wasteful expenditure caused by the delays to award. This process is to be facilitated through the office of the City Manager.
Ellipse and JDE Integration	June 2023	<ul style="list-style-type: none"> Webservices Integration completed and tested. Development of the drill down functionality from the Core to the Subsystem to commence, awaiting award of the Ellipse Support Contract.
Real Estate and Resources Management		
Rental	June 2024	<ul style="list-style-type: none"> Rental process is dependent on the leasehold project, valuation roll, and revenue management system and land transaction. For Real Estate Integrated system, business requirements have been completed. Tender specification complete, currently being reviewed.
General Process	June 2024	<ul style="list-style-type: none"> Maintenance module for properties and facilities; and facilities management are dependent on the Capital Asset Management (s) project implementation. Asset Management module currently on procurement process and estimated to be implemented by June 2024.

Sub-process	Estimate Timeframe	Status
Property Valuation system.	June 2024	<ul style="list-style-type: none"> Overall compliance in terms of systems integration is 80% as the internal processes are compliant. Demo on spatial view will also be done to National Treasury as part of an assessment of software applications. External entities that are currently not compliant are Surveyor and General and Deed's Integration. Integration to Building Inspectorate is dependent on the Building Inspectorate System anticipated to go live in December 2023.
Land Use and Building Control		
Land-use	June 2024	<ul style="list-style-type: none"> Land-use management is functional, however integration with the billing system will be required. Requirements analysis for the new property valuation system are also taking place for this process.
Special	June 2024	<ul style="list-style-type: none"> This is dependent on Revenue (Billing) system integration project. On GIS integration preparation is complete, awaiting the billing system implementation (integration).
Building Control	Dec 2023	<ul style="list-style-type: none"> For Building Inspectorate requirements have been completed and development have commenced and will be completed by Dec 2023.
Revenue Recycling Billing		
Revenue Management System	June 2024	<ul style="list-style-type: none"> Tender was advertised. Evaluation is currently in progress and should be completed by October 2023. Estimated timeframes for an award is January 2024.
Pre-Payment Billing System	June 2024	<ul style="list-style-type: none"> SUPRIMA is currently in place and there is a dependency of integration to the billing system to ensure mSCOA compliance.
Grants Management		
Grants Module	28/02/2023	<ul style="list-style-type: none"> Specification has been completed and development has commenced. The project will proceed after the implementation of the SCM migration due to resource constraints.
Treasury and Cash Management		
Banking Module	On Hold	<ul style="list-style-type: none"> Specification has been completed. (incl. Petty Cash Management). The project will commence after the implementation of the SCM migration due to resource constraints.
Investment & Cash Flow Management		<ul style="list-style-type: none"> The project will proceed after the implementation of the SCM migration due to resource constraints.
Borrowings Module		
Adjustments Budget Module		
Budget Module	On Hold	<ul style="list-style-type: none"> Dependent on the completion of the above modules.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

3. REPORT OF THE HUMAN SETTLEMENTS AND INFRASTRUCTURE
COMMITTEE: MEETING HELD 2023-10-20.

(Page R13)

3.1 Request for Additional Capital Projects Funds Within the Electricity Unit
to Implement DL561-Giba Gorge Business Park Development (7/2/R):
(Page 32: Human Settlements and Infrastructure Committee - Agenda 2023-10-20)

A need exists for the Electricity Unit to add under its Capital Projects a new project relating to the Giba Gorge business Park Development. The project referred to was not included in the 2023/24 Financial Year Capital budget. This was due to the Developer not having paid for the services provided at the time of budget approval. Payment of the project has since been made by the customer and the additional budget request shall allow for the Electricity Unit to proceed with provision of services that have been paid for.

The Electricity Unit has received an application for this new development to be connected to the existing electrical network. The requested capacity requires significant upgrades to be made to the existing electrical network for which the Developer has been quoted for. The Developer has entered into a Developers Agreement with eThekweni Electricity Unit and subsequently paid during the period of March and April 2023, in accordance with the quotation provided for.

This has occurred after the 2023/24 financial year draft budget was already approved and as a result the Unit did not cater for this development in the Capital Budget. The Unit has a legal obligation to provide services to the development as the Developer has entered into an agreement as well as made payment against a valid quotation provided by the Unit which can be viewed as a contract for which services are now required to be provided.

The Unit therefore requests the inclusion of this new project within the 2023/24 financial year Capital budget with a budget allocation aligned to that of the payment made by the developer for services to be provided to the Giba Gorge Business Park development. The development, under project DL561 – Giba Gorge Business Park Development, at a total cost of R16,284,773.13 (Sixteen Million Two Hundred and Eighty-Four Thousand Seven Hundred Seven Hundred and Seventy-Three Rand Thirteen Cent). It should be noted that the Supply Chain Management processes related to this project have been completed accordingly.

The ability of the Unit to obtain the additional funds requested shall result in the Unit not being held accountable by customer for receiving funds and the non-delivery of services as well as unlocking development within the eThekweni Municipal area of supply therefore providing for positives spin offs such as an increased revenue generation for the City as well as job opportunities for the communities surrounding the development.

The additional budget request of R16 284 773.13 (Sixteen Million Two Hundred and Eighty-Four Thousand Seven Hundred Seven Hundred and Seventy-Three Rand Thirteen Cent) shall result in an increase of the budget allocation to the Unit from R789 727 000.00 (Seven Hundred and Eight Nine Million Seven Hundred and Two Seven Thousand Rand) to R806 011 773.13 (Eight Hundred and Six Million Eleven Thousand Seven Hundred and Seventy-Three Rand Thirteen Cent). This additional

budget shall be catered from payments received from the Developer for this new development. Therefore, it is proposed that the Electricity Unit should proceed with the provision of services and that adjustment budget will be done accordingly.

During discussion at the Support Committee level, some Members were not in support of recommendations. Accordingly, with 28 Councillors present, 20 Councillors (ANC - 14, EFF - 2, IFP - 2, KZNI - 1 and ADEC - 1) voted in support of the recommendations and 8 – DA Councillors voted against.

At the Executive Committee level, the DA (02) maintained its dissenting vote. With the ANC (03), EFF (01) and the NFP (01) being in support,

COMMITTEE RECOMMENDS:

- 3.1.1 That the Council notes reasons for excluding the Giba Gorge Business Park Development in the 2023/24 Capital Budget which was due to the failure by the Developer to pay for the services at that time.
- 3.1.2 That the Council notes that the Giba Gorge Business Park development will cost an estimated total of R16 284 773.13 (Sixteen Million Two Hundred and Eighty Four Thousand Seven Hundred Seven Hundred and Seventy Three Rand Thirteen Cent).
- 3.1.3 That in view of the Developer having since paid for the services during March and April 2023 and has entered into a Developers Agreement with the eThekweni Electricity Unit, authority be granted for the provision of additional Capital Budget in the amount R16 284 773.13 (Sixteen Million Two Hundred and Eighty-Four Thousand Seven Hundred Seven Hundred and Seventy-Three Rand Thirteen Cent) to implement the Giba Gorge Business Park Development under Project No. DL561.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

- 3.2 Request for Authority to Host the 2024 Student Water and Sanitation Conference (3/6/R):
(Page 101: Human Settlements and Infrastructure Committee - Agenda 2023-10-20)

Authority is sought for approval to host the Student Water and Sanitation Conference on 6 March 2024 at Inkosi Albert Luthuli International Convention Center (ICC), Durban. A total number of 550 delegates is targeted comprising the following:

- 250 participants drawn from 50 schools with school being represented by four (4) Student and one (1) Educator. All efforts will be made to ensure a balance between rural and urban regarding the schools that will be participating, also considering representative of racial groups.
- It will only be the Secondary Schools across all districts and grades eight (8) to ten (10) that will be invited to avoid interfering with the exam for the other grades that are excluded.
- A mini conference will be conducted by the Department of Education as selection criteria.

- The other 300 participants will be inclusive of Management of eThekweni Water and Sanitation Unit, staff, Councillors of the Human Settlements and Infrastructure Committee, dignitaries from the other stakeholders such as the Department of Education and the Department of Water and Sanitation and the Mayoral Office.

The objectives of the conference are multi-varied, but mainly include involving the youth in collectively devising the strategies to better address various critical issues that are water and sanitation related. The Unit will also be intending to attain the following objectives:

- To develop sustainable partnership between local government and civic society, including the youth (students), by establishing an honest two-way communication mechanism and platform.
- To sharpen the research skills of youth when it comes to engineering field such as the water and sanitation sector.
- To empower the youth about their right and responsibilities towards the water and sanitation services.
- To inculcate in the youth the sense of ownership at an early stage so that they will know about the preciousness of water as a resource to be guarded with one's life.
- To narrow the gap between the government and the people it serves.

The Communications Unit of eThekweni Municipality will play vital role in the information dissemination campaign with a view to creating the requisite awareness about the Student Water and Sanitation Conference. Their role always involves inviting various media to the Conference and ensuring that the relevant officials and leaders are available for interviews during the Conference.

During discussion at the Support Committee level, some Members were not in support of recommendations. Accordingly, with 28 Councillors present, 18 Councillors (ANC - 14, EFF - 2, KZNI - 1 and ADEC - 1) voted in support of the recommendations and 8 – DA Councillors voted against and 2 - IFP Councillors abstained.

At the Executive Committee level, the DA (02) maintained its dissenting vote. With the ANC (03), EFF (01) and NFP (01) being in support,

COMMITTEE RECOMMENDS:

That authority be granted to the Head: Water and Sanitation to incur expenditure in the amount estimated at R2 074 951.60 (Two Million Seventy Four Thousand Nine Hundred and Fifty One Rand Sixty Cent), excluding VAT, to host the Student Water and Sanitation Conference on 06 March 2024 at Inkosi Albert Luthuli International Convention Center (ICC).

Financial Implications:

Vote No: 60151.16315. 11500.MRCO1.0010-R873 458.00

Vote No: 60110.16315.11500.0000.37110.0010-R1 201 493.60

FC No.: 22/364/ZM041

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

3.3

Noting of Reasons to Amend Contract No. WS 7229 in terms of Section 116(3) of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003 for Capacity Upgrade of Mkhizwana Water Treatment Works from 1.3 ML/Day to 4 ML/Day (23/1/11/2/1/2):

(Page 139: Human Settlements and Infrastructure Committee - Agenda 2023-10-20)

The existing Mkhizwana Water Treatment Works located in the Valley of a Thousand Hills receives raw water from the Nagle Dam Aqueduct and, currently, has capacity of 1.3 ML/d. The increased growth over the last two decades within the regions served by the Works, coupled with seasonal underperformance of the Works (due to old technology) over many years, have resulted in ongoing water shortages in the area.

Contract No. WS7229 aims to address water shortages through the execution of multi-disciplinary engineering (civil, mechanical, and electrical) construction work for the 1.3ML/day to 4ML/day capacity upgrade. A summary of information relating to the contract is contained in Table 1 below:

Table 1: Contract Information:

Item	Description
Contract No.	WS 7229
Contract Title	Mkhizwana Water Treatment Works: Capacity Upgrade From 1.3ML/day to 4 ML/day
Service Provider	Klomac Engineering (Pty) Ltd
Scope of Work	Various Civil, Mechanical, and Electrical works for the capacity upgrade of the Mkhizwana Water Treatment Works from 1.3ML/day to 4 ML/day
Date of advert	31 July 2020
Compulsory clarification meeting	None (due to Covid 19 restrictions)
Tender closing date	11 September 2020
Tender Contract participation goal (CPG)	30%
CPG achieved to date	42%
Conditions of Contract	General Conditions of Contract for Construction Works – 3rd Edition 2015 issued by the South African Institution of Civil Engineering (GCC 2015).
Time for Practical Completion	24 months
Contract Sum	R3 4,087,385.37 (excl VAT)
Contract Start Date	22 September 2021
Contract End Date	28 November 2023 (See Annexure 3)
Contract Financial Authority	R41,712,860.22 (excl VAT incl. contingencies and escalation, see Annexure 2)

A summary of interim payments to date is presented in Table 2 and signed payment certificates are in place as proof of payment. The total spend to date is **R29 392 867.72 (excluding VAT)**.

Table 2: Summary Interim Payment Certificates for Contract No. WS7229 (to date):

Interim Payment Certificate No.	Value of Work Certified (Excl. VAT)	Payment Status
IPC1	R318,939.56	Paid
IPC2	R975,341.18	Paid
IPC3	R4,128,454.44	Paid
IPC4	R3,034,025.87	Paid
IPC5	R1,567,301.70	Paid
IPC6	R1,944,361.02	Paid
IPC7	R2,454,936.54	Paid
IPC8	R406,335.75	Paid
IPC9	R1,219,498.12	Paid
IPC10	R 807,311.94	Paid
IPC11	R2,923,629.05	Paid
IPC12	R412,732.55	Paid
IPC13	R1,146,454.19	Paid
IPC14	R8 053 545.81	Paid

MOTIVATION

In addition to the contract details in Table 1, the following should be noted:

- The nature of the work is specialised with respect to the mechanical and electrical scope of work. When the contract was advertised in July 2020, a clarification meeting could not be conducted due to COVID-19 restrictions. Therefore, the document was priced without the bidders having had opportunity to visit the site and assess the various risks.
- The design responsibility matrix for this contract was included in the contract document, and is summarised as the following:
 - o The detailed design of the civil works is the responsibility of the Employer
 - o The detailed design of the mechanical and electrical works is the responsibility of the Contractor (based on the Employer's performance requirements)
- It is noted that the detailed design of the civil works was included in the Department's tender enquiry document i.e., in advance of the detailed design of the mechanical and electrical works.
- As per the contract requirements, the detailed design of the mechanical and electrical works was finalized by the Contractor during the construction phase, the tendered sum for the mechanical and electrical works is based on the Employer's control philosophy and functionality requirements.

The requirement for additional contract financial authority is presented below with a discussion of the challenges and events which have given rise to these costs.

Additional Cost due to Increase in Quantities in tender Bill of Quantities:

Contract No. WS7229 is a re-measurement contract, whereby the final quantities are measured based on actual work completed. The consulting engineer who undertook all the detailed engineering designs and prepared the tender enquiry document had

unfortunately under-quantified items in the bill of quantities. Due to this as well as various constraints on site, the quantities for various items in the tender bill were exceeded since the commencement of the construction work. This has collectively resulted in an overall increase in the tendered sum by **R1,796,762.02**.

Costs for Additional Civil Works:

Following the catastrophic storm event of April 2022, various re-designs had to be affected in order to ensure that the proposed new civil works would be able to withstand another such event. This necessitated the requirement for a more robust civil works design, in particular for the Retaining Walls, Administration Building, Pumpstation Building, and Steel Portal Frame, in addition, the design of various other smaller components of the construction works were rendered more substantial. The cost for the additional civil works is **R3,018,976.47**.

Costs for Additional Electrical and Mechanical Works:

In tandem with the re-engineering required for the Civil Works, revisions were also affected to the designs of various items of electrical and mechanical works to ensure improved robustness, reliability, and longer lifespan of the new infrastructure. These increase in the cost of the revised work (which is deemed essential) is **R3,779,200.31**.

The Contractor has to date submitted three (3) claims as per Clause 10 of GCC 2015. both of which have been ruled on by the Employer's Agent. The claims have resulted in a total cost of **R1,278,942.06** and a total extension of time of 122 days.

Additional Costs for Unforeseen Increase Contract Price Adjustment (Escalation):

Contract Price Adjustment (CPA) or escalation is applicable on contract no. WS7229 as per Clause 6.8.2 and Clause 6.8.3 of the conditions of the contract included as Annexure 6. To determine the required contract authority, an escalation allowance of R4,216,736.31, based on an estimated escalation of 7% per annum was calculated in January 2021. As per Table 3, this allowance was aligned with the prevailing rate of escalation.

The actual escalation for the contract is based on the contract clauses and on indices issued by the National Treasury and is included in Annexure 6. As per Table 3, there has been a significant increase in contract escalation over the last 3 years. This abnormally high escalation rate is primarily due to global fluctuations in energy costs.

A final escalation amount of R10,235,129.17 was calculated based on the current escalation indices shown in Annexure 6. As the original escalation allowance was R4,216,736.31, an additional escalation amount of **R6,018,392.86** is required to complete the contract.

Table 3: Summary of Escalation Percentages (January 2021 – March 2023):

	Escalation @ January 2021	Escalation @ January 2022	Escalation @ March 2023
Civil Works	2.78%	14.83%	28.42%
Manufacture of M&E Works	0.87%	25.68%	32.48%
Installation of M&E Works	0.00%	4.94%	12.83%

Additional Time for Mechanical, Electrical and Civil Works:

To undertake the additional mechanical, electrical, and civil works discussed above, an additional 67-day extension of time to the performance period is required.

A summary of the additional costs and time is shown in Table 4. The events (all of which were unforeseen at the tender stage) dictating an increase in the contract budget are as follows:

- Underestimation of items in the Bill of Quantities
- Changes to the design arising from the 11 April flood event and the finalisation of the mechanical and electrical design.
- Abnormally high escalation due to global market fluctuations
- Costs arising from contractual claims.

Table 4: Summary of Additional Costs for Contract No. WS7229:

Item No.	Description	Additional Cost*
1	Re-measurement of Works	R1,769,762.02
2	Total Civil Works Costs	R3,018,976.47
3	Total Electrical and Mechanical Works Costs	R3,779,200.31
4	Total Cost for Claims	R1,644,722.46
5	Additional Cost for Escalation	R6,018,392.86
6	Additional Performance period	189 days

The impact of the additional costs on the contract financial authority is summarized in Table 5.

Table 5: Summary of Additional Contract Financial Authority Required:

	Total Cost to Completion	Contract Authority	Additional Budget Required
Tender Sum	R35,857,147.39	R34,087,385.37	R1,769,762.02
Contingencies (10%)	R8,198,176.78	R3,408,738.54	R4,789,438.24
Escalation (7 % per annum) over 20 months	R10,235,129.17	R4,216,736.31	R6,018,392.86
Contractual Claims	R1,644,722.46	R0.00	R1,644,722.46
Additional Contract Financial Authority Required			R14,222,315.58

During discussion, the Committee then undertook to conduct site inspection as part of oversight and be able to manage this matter from an informed premise. As such, it was agreed to include all other Water Treatment Works as part projects to be visited by the Committee. The Committee also requested the Head: Water and Sanitation to ensure that challenges experienced related to fencing and security on all sites for Water Treatment Works are addressed.

With the Committee noting compliance requirements associated with this matter,

COMMITTEE RECOMMENDS:

- 3.3.1 That Committee notes reasons to amend Contract No.: WS7229 in terms of Section 116(3) of the Local Government Municipal Finance Management Act (MFMA) No. 56 of 2003 for the Capacity Upgrade of the uMkhizwana Water Treatment Works from notification of award dated 17 August 2021 due to the following reasons:
- ✓ Underestimation of items in the Bill of Quantities
 - ✓ Changes to the design arising from 11 April flood event and the finalization of the mechanical and electrical design.
 - ✓ Abnormally high escalation due to global market fluctuations
 - ✓ Costs arising from contractual claims
- 3.3.2 That the Committee notes that there were no comments received arising from the public participation process advertised through the media in terms of Section 116(3) of the Municipal Finance Management Act as part of achieving compliance requirements.
- 3.3.3 That the financial implication of the proposed amendment is that the contract authority of R41 712 860.22 (Forty One Million Seven Hundred and Twelve Thousand Eight Hundred and Sixty Rand Twenty Two Cents) excluding VAT be increased by R14 222 315.58 (Fourteen Million Two Hundred and Twenty Two Thousand Three Hundred and Fifteen Rand Fifty Eight Cents) excluding VAT to R55 935 175.81 (Fifty Five Million Nine Hundred and Thirty Five Thousand One Hundred and Seventy Five Rand Eighty One Cent) excluding VAT.
- 3.3.4 That the period of performance be extended from 150 weeks to 177 weeks and the corresponding practical completion date be revised from 22 September 2023 (original completion date) to 29 March 2024.
- In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.**
- 3.4 Request for Authority to Issue Muvo Cards to the Public at No Cost for a Limited Period Due to the Mandatory Requirements to Replace Expired Cards (26/3/1/5):
(Page 440: Human Settlements and Infrastructure Committee - Agenda 2023-10-20)
- Authority is sought for approval to replace Muvo Cards expiring on 31 December 2023, at no charge to commuters for a limited period, but with the following conditions:
- Expiring cards handed in during the period 01 October to 31 December 2023 will be replaced at no charge.
 - Expired cards handed in from 01 - 31 January 2024 will also be replaced at no charge, to accommodate commuters who were unavailable during the festive period.
 - Expired cards handed in from 01 February 2024 will be replaced at a cost of R20.00 (Twenty Rand).

It is estimated that approximately 4 000 (four thousand) cards will need to be replaced at a cost of approximately R250 000.00 (Two Hundred and Fifty Thousand Rand) inclusive of VAT.

With Committee being in support of the proposal,

COMMITTEE RECOMMENDS:

- 3.4.1 That authority be granted for the Head: eThekweni Transport Authority to incur expenditure at a cost of approximately R250 000.00 (Two Hundred and Fifty Thousand Rand) for issuing of approximately 4 000 (four thousand) Muvo cards at no charge to the commuter on the following conditions below:
- 3.4.1.1 Expiring cards handed in during the period 01 October to 31 December 2023 will be replaced at no charge.
- 3.4.1.2 Expired cards handed in from 01 - 31 January 2024 will also be replaced at no charge, to accommodate commuters who were unavailable during the festive period.
- 3.4.1.3 Expired cards handed in from 01 February 2024 will be replaced at a cost of R20.00 (Twenty Rand).

Financial Implications:

Card procurement cost 2022/2023(Excl VAT)	R53.95
Quantity to be replaced	4 000
Total Cost (excl VAT)	R215 800
VAT	R32 370
Total Cost (Incl VAT)	R248 170

Vote No.: 52200/14105.33/12120/0000MRC01/0010

FC No.: 2024/50/016

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

- 3.5 Request for Authority to Reprioritise the 2023/2024 PTNG Operation Budget within the EThekweni Transport Authority (10/1) & (7/1/3/2):
(Page 443: Human Settlements and Infrastructure Committee - Agenda 2023-10-20)

Authority is sought for approval of reprioritization of funding of the eThekweni Transport Authority Operational Budget line items, in the 2023/2024 financial year, more specifically to make more funds available for the acquisition of engineering design software licenses.

With the Committee being in support of the proposal,

COMMITTEE RECOMMENDS:

That authority be granted for the reprioritization of eThekweni Transport Authority (ETA) Operational Budget in the 2023/2024 financial year by increasing the budgetary provision under Vote No.: 50120 18645 81370 58000 0010 0000 from R400 320.00

(Four Hundred Thousand Three Hundred and Twenty Rand) by R200 000.00 (Two Hundred Thousand Rand) sourced from Vote No.: 50120 11380 8130 8130 0010 0000 to R600 320.00 (Six Hundred Thousand Three Hundred and Twenty Rand).

Financial Implications:

50120 18645 81370 0010 0000 Software licensing

Funds required 2023/24FY = R600 320.00

Funds available 2023/24FY = R400 320.00

50120 11380 8130 58000 0010 0000-Contract Delay Claims Provision

Savings available 2023/24 FY = R200 000.00

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

3.6

Request for Budget Reprioritisation of the 2023/24 Capital and Operating Budget of the Human Settlement Unit (7/1/2/2):

(Page 446: Human Settlements and Infrastructure Committee - Agenda 2023-10-20)

Authority is sought to reprioritize the Human Settlements Unit Capital and Operating Budget whilst maintaining the currently approved budget quantum; such reprioritizations to be rectified in the pending Mid-Term adjustment budget process. This reprioritization is due to budget cuts anomalies applied in the budget approval process that have consequently active projects with contractual obligations. The Human settlements Unit has, advanced stages of procurement planning and the contractual commitments to date, there is an opportunity to reprioritize or reallocate budget from the 2023/2024 to meet the 2023/2023 financial contractual commitments. The reprioritized budget will result in more improved expenditure which in turn will reflect positively in terms of the National Department of Human Settlements (NDHS) expectations and will not jeopardize future allocations of the Informal Settlements Upgrading Partnership Grant (ISUPG) and the Urban Settlements Development Grant (USDG) funding to the Municipality.

The Unit has reviewed the 2023/2024 financial year capital and operating budget, which does not reflect the revised submission undertaken in June 2023 and still maintain the initial identified projects that can be deferred in order to allow the reallocation of fund to meet the current financial and contractual obligations arising from:

- 2022/2023 financial year projects that are underfunded in the 2023/2024 financial year (i.e., carry-over projects, that were originally planned for completion in 2022/2023 financial year but are continuing in the 2023/2024 financial year.
- 2023/2024 financial year projects that are unfunded/underfunded and have contractual obligations.
- Accordingly, any project that does not have a contractual commitment at this stage will be funded for the service designs in order to meet the above capital requirement, until such time funds become available.

- The budget required for the deferred works will be sought through the budget process for inclusion in the following financial year viz. 2024/2025, subject to budget being made available.
- The approach adopted ensures that contractual obligations are met, whilst also ensuring that a suitable pipeline of projects is available should additional funding become available within the current 2023/2024 financial year of the next financial viz. 2024/2025 financial year.

During discussion, the Committee undertook to conduct a site inspection as part of oversight and to manage this matter from an inform premise. As such, it was agreed that this item should remain a standing matter on the Committee Agenda to enable the Head : Human Settlements to provide regular updates, especially for those projects with challenges. In addition, the Committee requested a workshop to be held in due course to enable the relevant official from the Human Settlements Unit to provide detailed information on all projects that are currently in place including challenges encountered.

With the Committee being in support of the proposal,

COMMITTEE RECOMMENDS:

3.6.1 That approval be granted for the reprioritization of the Human Settlements Unit Capital and Operating Budget as per the details outlined in the Annexure “A” below:

ANNEXURE A: HUMAN SETTLEMENTS UNIT REPRIORITISATION OF 2023/24 CAPITAL AND OPERATING BUDGET (25/08/2023)

Capital & Operating Budget	Capital Budget Description	Funding Source	Region	Approved Budget 23/24	Proposed Budget Adjustment	Savings Declared	Additional Budget Required	SCM Status
P5172A1	Redcliffe Valley View-Roads in	USDG	W059	15,000,000.00	40,000,000.00	-	25,000,000.00	Construction in progress
P5216Z1	Lamontville Informal Settlement	ISUP	W075	14,200,000.00	5,000,000.00	9,200,000.00	-	Professional Team appointed, working on detailed designs for services contract
P5268BB	Kennedy Road-Roads, stormwater	ISUP	W025	741,000.00	2,500,000.00	-	1,759,000.00	SCM in Progress
P5472A1	Kloof EXT 15 & 21 Phase 3/4	ISUP	W082	14,188,000.00	5,560,460.00	8,627,540.00	-	Local content issue - Non-Award report at committees. New tender to be submitted to BSC committee - BSC approved 23/08/2023
P5511H	Umlazi Zone 2	ISUP	W079	20,000,000.00	7,000,000.00	13,000,000.00	-	Report at BEC
P5583E	Nkanku Road	ISUP	W090	9,175,000.00	10,175,000.00		1,000,000.00	Construction in progress
P5167A	Ntuzuma C PH 2	ISUP	W038	1,255,000.00	100,000.00	1,155,000.00		Report at BEC
P5121A	Oakford Priory	ISUP	W059	-	5,000,000.00	-	5,000,000.00	Construction in progress (Alternative sanitation)

Capital & Operating Budget	Capital Budget Description	Funding Source	Region	Approved Budget 23/24	Proposed Budget Adjustment	Savings Declared	Additional Budget Required	SCM Status
P5596A	Bhambayi Phase 3 (RFS)	ISUP	W061	9,701,000.00	200,000.00	9,501,000.00	-	Local content issue - Non-Award report at committees. New tender to be submitted to BSC committee for implementation of the project in its entirety as one contract valued at R18m as opposed to phases.
P5623A	Old & New Dunbar (Wiggins) Overspill (RFS)	ISUP	W01	3,771,000.00	3,160,000.00	611,000.00	-	SCM in Progress
P5627A	Umlazi - Q - Q4 /Q5 (RFS)	ISUP	W087	1,857,000.00	1,820,000.00	37,000.00	-	SCM in Progress
P5628A	Umlazi - BB - BB 868 (RFS)	ISUP	W084	1,059,000.00	1,340,000.00	-	281,000.00	SCM in Progress
P5630A	Umlazi - T - T5 (RFS)	ISUP	W089	1,208,000.00	1,150,000.00	58,000.00	-	SCM in Progress
P5631A	Umlazi - H - H7 (RFS)	ISUP	W076	1,770,000.00	1,460,000.00	310,000.00	-	SCM in Progress
P5636A	Umlazi V - Peace Valley (V7) (RFS)	ISUP	W076	959,000.00	1,180,000.00	-	221,000.00	SCM in Progress
P5607A	Cato Crest (RFS)	ISUP	W030	100,000.00	-	100,000.00	-	Project Complete 22/23FY
P5648A	Higginson Highway (RFS)	ISUP	W072	1,430,000.00	1,250,000.00	180,000.00	-	SCM in Progress
P5426	Parkington (RFS)	ISUP	W034	-	50,000.00	-	50,000.00	Cancellation In Progress
P5455	Havelock Road (RFS)	ISUP	W034	-	25,000.00	-	25,000.00	Cancellation In Progress
P5513B	Blackburn Ph2 (RFS)	ISUP	W102	4,687,000.00	6,045,794.00	-	1,358,794.00	Phase 2 Complete. Phase 3 in Progress
P5544A	Siyanda (RFS)	ISUP	W041	2,500,000.00	3,801,698.00	-	1,301,698.00	Phase 1 Complete. Phase 2 SCM to Start
P5598	Ntuzuma C phase 2 part 2 (RFS)	ISUP	W038	1,784,000.00	2,263,076.00	-	479,076.00	Phase 2 Complete. Phase 3 in Progress
P5606A	Amaotana Zwelisha Phase 1 (RFS)	ISUP	W051	3,000,000.00	5,031,102.00	-	2,031,102.00	Phase 1 Complete. Phase 2 in Progress
P5609A	Emmaus (RFS)	ISUP	W015	100,000.00	-	100,000.00	-	Project completed
P5611A	Gumtree Road Kenville (RFS)	ISUP	W034	3,000,000.00	2,544,318.00	455,682.00	-	SCM in Progress
P5625	Indus Lane (RFS)	ISUP	W025	2,900,000.00	2,264,731.00	635,269.00	-	SCM in Progress
P5626A	Emgodini (RFS)	ISUP	W036	2,900,000.00	2,232,008.00	667,992.00	-	SCM in Progress
P5268B	Kennedy Road	ISUP	W025	3,000,000.00	9,208,000.00	-	6,208,000.00	Construction in progress

Capital & Operating Budget	Capital Budget Description	Funding Source	Region	Approved Budget 23/24	Proposed Budget Adjustment	Savings Declared	Additional Budget Required	SCM Status
P5633A	Umlazi P5/PX3 (RFS)	ISUP	W087	3,115,000.00	2,805,000.00	310,000.00	-	SCM in Progress
P5634A	Umlazi J - J4 (RFS)	ISUP	W077	4,070,000.00	2,725,000.00	1,345,000.00	-	SCM in Progress
	Operating	ISUP	Various	5,180,000.00	14,180,000.00	-	9,000,000.00	MOA is in place. Contracts with the 3 lead NGOs already signed.
X4632CZ1	EWS Project: Cathodic protection new works	ISUP	W010			7,421,187.00	-	SCM in Progress
				132,650,000.00	140,071,187.00	53,714,670.00	53,714,670.00	

Notes:

Apart from HSU savings and reallocations, the HSU Proposed Reallocation budget has also been increased by R7,421,187 as a result of savings identified by EWS on the Cathodic protection new works project.

Water and Sanitation 2023/24 Capital Budget:

Capital Budget	Capital Budget Description	Funding Source	Region	Approved Budget 23/24	Proposed Reallocation	Savings Declared	Additional Budget Required	SCM Status
X4632CZ1	Cathodic protection new works	ISUP	W010	20,000,000.00	12,578,813.00	7,421,187.00	-	SCM in Progress

Capital Budget	Capital Budget Description	Funding	Region	Approved Budget 23/24	YTD Accruals	Commitments	Available Budget	Savings Declared
P5172A1	Redcliffe Valley View-Roads in	51080	W059	15,000,000.00	7,972,972.71	7,027,027.29	-	-
P5186Z1	Ntuzuma D Phase 2 & 3 Roads, Sto	51253	W043	20,000,000.00	8,320,484.21	1,891,600.12	9,787,915.67	-
P5216Z1	Lamontville Informal Settlement	51253	W075	14,200,000.00	72,446.93	-	14,127,553.07	9,200,000.00
P5268B	Kennedy Road	51253	W025	3,000,000.00	2,262,825.49	737,174.51	-	-
P5268BB	Kennedy Road-Roads, stormwater	51253	W025	741,000.00	-	-	741,000.00	-
P5472AA1	Kloof EXT 15 & 21 Phase 3/4	51253	W082	14,188,000.00	-	-	14,188,000.00	8,627,540.00
P5511H	Umlazi Zone 2	51253	W079	20,000,000.00	-	-	20,000,000.00	13,000,000.00
P5513B	Blackburn Ph2	51253	W102	4,687,000.00	2,477,930.20	939,947.72	1,269,122.08	-
P5583E	Nkanku Road	51253	W090	9,175,000.00	4,063,700.77	5,111,207.85	91.38	-
P5596A	Bhambayi Phase 3	51253	W061	9,701,000.00	-	-	9,701,000.00	9,501,000.00

Capital Budget	Capital Budget Description	Funding	Region	Approved Budget 23/24	YTD Accruals	Commitments	Available Budget	Savings Declared
P5598A	Ntuzuma C Phase 2 Part 2	51253	W038	1,784,000.00	-	200,583.09	1,583,416.91	-
P5606A	Amaotana Zwelisha Phase 1	51253	W051	3,000,000.00	704,593.09	837,976.91	1,457,430.00	-
P5611A	Gumtree Road Kenville	51253	W034	3,000,000.00	-	2,016.20	2,997,983.80	455,682.00
P5623A	Old & New Dunbar (Wiggins) Overspill	51253	W001	3,771,000.00	-	-	3,771,000.00	611,000.00
P5625A	Indus Lane	51253	W025	2,900,000.00	-	-	2,900,000.00	635,269.00
P5626A	Emgodini	51253	W036	2,900,000.00	-	-	2,900,000.00	667,992.00
P5627A	Umlazi - Q - Q4 /Q5	51253	W087	1,857,000.00	-	-	1,857,000.00	37,000.00
P5628A	Umlazi - BB - BB 868	51253	W084	1,059,000.00	-	-	1,059,000.00	-
P5630A	Umlazi - T - T5	51253	W089	1,208,000.00	-	-	1,208,000.00	58,000.00
P5631A	Umlazi - H - H7	51253	W076	1,770,000.00	-	-	1,770,000.00	310,000.00
P5633A	Umlazi - P5/PX3	51253	W087	3,115,000.00	-	-	3,115,000.00	310,000.00
P5634A	Umlazi J - J4	51253	W077	4,070,000.00	-	-	4,070,000.00	1,345,000.00
P5636A	Umlazi V - Peace Valley (V7)	51253	W076	959,000.00	7,405.08	-	951,594.92	-
P5648A	Higginson Highway	51253	W072	1,430,000.00	-	-	1,430,000.00	180,000.00
P5167A	Ntuzuma C PH 2	51253	W038	10,000,000.00	-	-	10,000,000.00	1,155,000.00
P5609A	Emmaus	51253	W015	100,000.00	-	-	100,000.00	100,000.00
P5544A	Siyanda	51253	W041	2,500,000.00	-	1,436,418.26	1,063,581.74	-
P5607A	Cato Crest Greenland	51253	W030	100,000.00	-	-	100,000.00	100,000.00
X4632CZ1	EWS Project: Cathodic protection new works	51253	W010	20,000,000.00	-	-	20,000,000.00	7,421,187.00
TOTAL								53,714,670.00

3.6.2

That it be noted that the reprioritization budget submission does not result in a request for any additional funding and will be incorporated in the Councils next 2023/24 Financial year adjustment budget.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

DIRECT EXCO REPORTS

4. REQUEST TO SUPPORT THE INDEPENDENT ELECTORAL COMMISSION FOR THE 2024 NATIONAL AND PROVINCIAL ELECTIONS (3/1/1R)

(Page 1)

As per the Constitutional requirement, Municipalities are required to support the Independent Electoral Commission (IEC) when elections are hosted thereby ensuring smooth; seamless; and successful election process. This same requirement is applicable as the country is having general National and Provincial elections in 2024.

The eThekweni Municipality has One Hundred and Eleven (111) Wards and Eight Hundred and Seventy-Two (872) voting districts, each with one (01) voting station. It should be noted that each voting station is required to have basic services not limited to water and electricity, and then the provision of other logistical requirements for the voting station to meet all the necessary requirements to successfully host the election process.

The eThekweni Municipality has experience in providing support to the IEC and with the Council having previously approved funds for this purpose. Once again, the Municipality is expected to support the IEC by the provision of the resources in the form of personnel; transportation; venue hire to serve as Results Operation Centre. Therefore, necessary inspection will be undertaken in all voting stations to determine required services for responsible parties to undertake necessary measures. EThekweni Municipality will also provide the Results Operation Centre.

Other activities will include:

- Effective distribution of election material;
- Provision of relevant escort;
- Conducting Voter Education Programme;
- Handling Voter Registration;
- Handling Election Process, including Counting and Capturing of Votes

Thereafter, the Committee noted that this was a compliance matter as per the statutory requirement and therefore supported allocation of funding in the amount of R3 Million for provision of overall support to the IEC to host the 2024 elections. The DA then abstained on the matter at this stage to take the matter to its Caucus. With the majority being in support,

COMMITTEE RECOMMENDS:

- 4.1 That Council notes the Constitutional requirement for the Municipalities to support the Independent Electoral Commission during the election period and therefore approves the allocation of funding in the amount of R3 Million for the eThekweni Municipality

to support the 2024 National and Provincial Elections, and the funds to cover the costs of the following activities, amongst others:

- (i) Transportation for effective distribution of election material and equipment;
- (ii) Provision of relevant escort for the safety of the election material;
- (iii) Allocation of personnel to conduct Voter Education Programme;
- (iv) Allocation of personnel to handle Voter Registration;
- (v) Allocation of personnel for the overall election process, including Counting and Capturing of Votes; and
- (vi) Hire of venue to serve as Results Operations Centres, it being recorded that either the Moses Mabhida Stadium or the Inkosi Albert Luthuli International Convention Centre will be used depending on the venue to be available at the time of booking

- 4.2 That, subject to the approval of .1 above, Council mandates the Deputy City Manager: Governance and International Relations, in his capacity as the Municipal Electoral Officer, to facilitate from within the eThekweni Municipality, the provision of human resources; facilities; logistical; and other necessary support for the effective delivery of the 2024 National and Provincial Local Elections.
- 4.3 That authority be granted for the Municipal Electoral Officer, Mr. Sipho Cele, to incur expenditure within the budget allocated to support the elections.
- 4.4 That authority be granted for the City Manager to issue Circulars that activate various mechanisms for effective support towards the elections.

Financial Implications:

An estimated budget of R3 Million is required for eThekweni Municipality to effectively support the 2024 National and Provincial Elections.

ACTIVITY	Vote Numbers	Amount
Staffing Support during high activity (Overtime)	32001 13190 12120 0000.47000.0010	R450 000.00
Logistical Support (Vehicles, generators and supplies)	32001 18950.10 12120 0000.47000.0010	R700 000.00
Logistical Support (Printing)	32001 20325 12120 0000.47000.0010	R40 000.00
Results Centre Venue Hire Costs including beverages and meals	32001 22710 12120 0000.47000.0010	R1 810 000.00
TOTAL BUDGET		R3 000 000.00

The total amount of R3 Million has been budgeted within the Governance and International Relations Cluster in the 2023/2024 financial year.

FC No.: 2024/06/07

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

5. AUDIT AND RISK COMMITTEE REPORT FOR THE FOURTH QUARTER ENDED 30 JUNE 2023 (2/10/1/1/3)

(Page 1)

The Chairperson of the Audit Committee presented audit outcomes on the Municipal internal control environment for the period ended 30 June 2023. The details of the findings are contained in his Report dated September 2023. Prior to presenting the

Reports synopsis, the Chairperson gave the Executive Committee assurance that the Committee is operating within stipulated timeframes, referring in particular to the submission of the Annual Financial Statement (AFS) to the Auditor-General for external audit purposes.

Thereafter, The Chairperson narrated the context of the Audit Committee Report and took the Committee through its salient features thus presenting deficiencies as follows:

A: Financial Controls:

- (i) Urban Settlement Development Grant (USDG) experiencing underspending, and improved monitoring mechanism recommended.
- (ii) A need exists for the Heritage Assets Review, and currently there is no existing Strategy nor Standard Operating Procedure thus an incoherent process for assets management. The Chair then raised a general concern regarding some of the Units/Departments operating either without policies/SOPs or the existing documents used are considered outdated.
- (iii) A need exists to ensure timeous reconciliation process for Cash & Bank Management.

B: Electricity Unit Information Communication Technology:

- (i) Slow progress in implementing previous recommendations regarding the integration of the Ellipse System into the mainstream systems of the Municipality recorded as concerning.
- (ii) Potential risk as a result of user access not disabled timeously when no longer required to access the system.
- (iii) No documents located to inform disaster recovery thus a risk in achieving business continuity in the event disaster materializes.

C: Internal Control Environment:

- (i) Payroll risk identified associated with the processing of new transactions in between a dummy and the actual payroll schedule.
- (ii) Review required of the impact of key vacant positions within the Municipality.

D: Projects Management:

- (i) Roads Rehabilitation Programme to be compromised as a result of staff shortages and lack of Strategy and/or Standard Operating Procedure to inform flow of rehabilitation work in eThekweni Region
- (ii) For Ntshongweni Development, there is lack of governance processes within the Catalytic Projects Unit in relation to the appointment of developers to serve as implementing agents under this development. Also, that improper delegation of the Supply Chain Management powers has been witnessed within the Catalytic Projects Unit.

E: Durban Marine Theme Park (Ushaka Marine World):

- (i) Concerns expressed by the Entity regarding the process of appointing Tenants being now subjected to a public tender system for fear of attracting Tenants not meeting the standard required to achieve attractiveness. The matter is still to be unpacked further with the relevant authorities to explore options available to achieve a win-win solution regarding the processes applicable and to be followed in this regard.
- (ii) Concerns about the delays by the shareholder to conclude options to be implemented by the Ushaka Marine World to improve its business operations and sustainability thereof, drawing from the options presented through the feasibility study undertaken for this purpose.
- (iii) The identification of the beachfront area as crime hotspot represents huge risk for the Ushaka Marine World business, so as uncertainty regarding future development plans in this area to determine the significance to continue investing more in business in this location.

F: Inkosi Albert Luthuli International Convention Centre (ICC):

- (i) The closure of Hilton Hotel affect the attractiveness of the ICC in conference business. The shareholder to consider the option of buying the Hotel to achieve convenience and thus generating interest for buyers to consider the ICC as the lucrative conference venue.
- (ii) To address crime level and cleanliness for the ICC to maintain attractiveness and gain competitive advantage over its counterparts
- (iii) Consideration to be given to growing Tourism & Hospitality Sector to achieve overall economic growth within the eThekweni Municipal area
- (iv) The ICC to consider having rooms for conference guests thereby achieving convenience and as plan to outperform its counterparts and attract more business

Management then presented a document comprising updates in response to the findings identified. Management displayed commitment to implement mitigating measures pointing out that some of the interventions implemented are beginning to yield positive results even though not major but there is a shift towards the right direction. For instance, attention being drawn to slight improvement in non-revenue water which once sat above 60% but has now gone downward to reach 55%. On the issue of low capital spend, Management undertook to monitor work in progress and the flow of invoices thereby actioning payment timeously to improve the capital spend outcome for better.

Thereafter, the Committee welcomed comprehensive report by the Chairperson, as well as progress submitted by Management to implement mitigating measures aimed at clearing the findings identified.

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

- (i) Management commended for improvements effected to reduce non-revenue water, and that vigorous attempts be made to achieve more reduction.

- (ii) That to minimize borrowings, the Municipality should be gearing towards improving its collection rate and intensify credit control measures to recover debts owed by Government Departments and Parastatals
- (iii) That filling of positions critical to service delivery be prioritized to maintain stability and sustainability.
- (iv) That a need exists to consider rezoning Inkosi Albert Luthuli International Convention Centre precinct to meet its international standard and also the introduction of complementing operations, whilst also focusing on the strategic relocation of some of the operations to create an environment conducive to the ICC business environment.
- (v) That in order to undertake effective oversight without losing sight of the findings, a schedule of all findings be prepared which will serve as a working document for the Executive Committee to make follow ups and be able to do reconciliation in terms of reporting progress in a form of (a) number of findings identified; (b) findings cleared; (c) findings remaining outstanding; and (d) associated timeframes. Otherwise, the current fragmented submission of responses was considered not assisting continuity in the oversight process.

With the Committee having noted the Audit and Risk Committee findings; commitments made by Management to continue attending to these issues; and Management being also requested to address points listed in (i) – (v) above,

COMMITTEE RECOMMENDS:

That the Audit and Risk Committee Report for the third quarter ended 30 June 2023, submitted in terms of Section 166 (1) of the Municipal Finance Management Act No. 56 of 2003, and Section 14(2)(a) of the Local Government Municipal Planning and Performance Management Regulations 2001, to advise Council on the activities of the Audit and Risk Committee and the results of its quarterly reviews of the systems of internal financial control, internal audit; risk management processes; financial reporting; performance management; governance; compliance with laws and regulations as well as any other issues referred by the Municipality or its Entities; be noted, as per the detailed findings contained in the Report presented by the Audit and Risk Committee Chairperson dated September 2023, and also noting responses thereto as submitted by Management as per the Report by the City Manager dated 2023-10-16.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

6. UPDATE REPORT ON INTERVENTIONS UNDERTAKEN TO RESPOND TO DAMAGES CAUSED BY DISRUPTIVE RAINFALL OF JUNE 2023 (29/2/2/3)

(Page 36)

It will be recalled that from 27 to 28 June 2023 the eThekweni Municipality experienced devastating tornadic weather conditions resulting in significant structural damages ranging from partial and total collapse, damages in electrical road, water and sanitation infrastructure. With the assistance from various stakeholders, the Municipality was able to provide short-term relief and provided shelter to displaced people.

Due to budget constraints, the Municipality was unable at the time to adequately restore infrastructure and households' properties, but continued to undertake conditional assessments to quantify damages and financial requirements associated therewith. That the assessment outcome has revealed that a total amount of R543 445 897.60 (Five Hundred and Forty-Three Million Four Hundred and Forty-Five Thousand Eight Hundred and Ninety-Seven Rand Sixty Cent) is required to complete implementation of the necessary interventions for restoration.

The Committee also received progress report on the interventions made during the heavy rainfall of 16 and 22 October 2023 following level six (06) warning issued by the South African Weather Services (SAWS) together with the eThekweni Flood Early Warning (FEWS). In this regard, the Municipality activated Joint Operations Centre (JOC) with various Departments. Media statements were disseminated through all media platforms to alert communities on expected heavy rainfall to put contingency measures in place and activated shelters for people, particularly those occupying low lying areas in case of emergency.

Through collective approach by all Municipal departments, lives were saved with only one reported injury due to a lightning incident. It was reported that there were no fatalities and missing persons thus far. It was also reported that other incidents included flooded roads, partially damaged houses, sink holes, damaged roads and fallen trees. However, teams were on the ground attending to all incidents and to monitor the situation.

The Committee welcomed the comprehensive report and appreciated the fact that no lives were lost during the recent heavy rains. However, Members expressed reservations on the slow-paced responses from other Departments to resolve some of the challenges experienced due to the heavy rainfall. In addition, concerns were raised on the indication that some of the challenges experienced June 2023 have not yet been resolved. That the City should look into resolving historic challenges, with high-risk areas being given first priority. That all Municipal departments be represented in JOC when faced with disasters to minimize damages and provide more interventions.

With issues of climate change negatively impacting the area of eThekweni, the following factors were considered critical to achieve disaster state of readiness:

- Intensifying education campaign on illegal dumping and its consequences on the Municipal drainage systems;
- That communities be cautioned about consequences of land invasion without complete understanding dangers of that particular area;
- Building better to ensure infrastructure is able to withstand heavy rainfall;
- Identifying areas constantly posing risk during heavy rains to ensure priority is given when floods materialize;
- Establishment of Zonal Service Delivery Volunteer system and empowerment with various skills to increase human capacity in each region of eThekweni to ensure capacitation in case of emergencies for immediate response and that Sector Education and Training Authorities (SETAs) be engaged to develop partnerships to undertake trainings;

- Engaging Provincial and National Departments to unpack issues of service delivery within local government due to funds being centralized and causing delays thus not responding swiftly to issues of disaster;

In response, Management noted comments made by the Committee and provided clarity that with funding being centralized, the Municipality has to make claims after assessing damages for funding to be dispersed accordingly.

Thereafter, with Members having raised concerns on the fact that some activities were being managed by other Organs of State with no Council authorization, Members were informed that the City Manager is empowered to enter into administrative partnerships with other Organs of States towards the betterment of service delivery and that Council is then required to play its oversight role in ensuring that selection processes were followed in a proper manner.

It was then confirmed that eThekweni Municipality is in the process of resuscitating its Volunteer Database and that the selection will incorporate all eThekweni Wards and with training to be provided accordingly. Management then undertook to provide update report on progress being made to respond to issues of service delivery.

With Members having noted the progress being made to respond to issues of disasters,

COMMITTEE RECOMMENDS:

- 6.1 That Council notes comprehensive update report representing various eThekweni Municipal Units and their floods disaster recovery cost incurred after disruptive rainfall which occurred in the eThekweni area on 27 June 2023.
- 6.2 That Council supports estimated costs submitted by various departments for short-to long-term implementation of recovery.
- 6.3 That Council notes and supports total cost of R543 445 897.60 (Five Hundred and Forty-Three Million Four Hundred and Forty Five Thousand Eight Hundred and Ninety Seven Rand Sixty Cents), excluding VAT, for recovery after the disruptive rainfall of 27 June 2023.

Financial Implications:

1. Human Settlements:

Programmes	Southern Region	Western Region	Northern Region	Totals per programme	Cost Estimate
BNG houses affected	68	35	108	211	211 x R141,294 = R29 813 034.00
Roofs & Ceiling repairs	252	50	260	562	562 x R20 572.00 = R11 561 464.00
Retaining Walls	60	12	60	132	132 x R140 000.00 = R18 480 000.00
Material Supply	370	29	450	849	849 x R15 000.00 = R12 735 000.00
Professional Fees	20%				R10 821 899.60
TOTAL					R83 411 397.60

eThekweni Human Settlements proposed solutions to relocated approximately 360 (three hundred and sixty) families affected by floods and residing close to the stream and the following options are being explored:

- Identification of land close to Cato Crest
- Utilize TEA at Bellair
- Purchase a building - Manning building of Bluff building or Queensburgh.

2. Engineering:

All Engineering Department submitted one consolidated Unit report. Below is the preliminary submission of damages and cost estimates for Engineering Units:

Item No.	Department	Cost Estimate
1.	Coastal Stormwater & Catchment Management	R327 750 000.00
2.	Roads Provision	R7 500 000.00
3.	Water and Sanitation	R55 100 000.00
TOTALS		R390 350 000.00

3. Health Unit:

Item No.	Department	Cost Estimate
1.	Capex	R1 383 000.00
TOTALS		R1 383 000.00

4. Disaster Management:

Item No.	Department	Cost Estimate
1.	Relief tent installed at Cator Crest	R341 000.00
2.	Aerial assessment of damage with Helicopter	R9 500.00
TOTALS		R350 500.00

5. Electricity Department:

Estimated replacement costs of damages - R2 186 000.00

6. Parks, Recreation & Culture:

Estimated costs - R10 665 000.00

Integrated Cost Implications:

Department	Estimate Costs
Engineering	R390 350 000.00
Human Settlements	R83 411 397.60
Health	R1 383 000.00
Disaster Management	R350 500.00
Parks, Recreation & Culture	R10 665 000.00
Water & Sanitation	R55 100 000.00
Electricity	R2 186 000.00
TOTALS	R543 445 897.60

The total cost to infrastructure recovery, rehabilitation, reconstruction and building back is estimated at R543 445 897.60 (Five Hundred and Forty-Three Million Four Hundred and Forty Five Thousand Eight Hundred and Ninety Seven Rand Sixty Cents excluding VAT).

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

7. REPORT ON SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN
ACHIEVEMENTS FOR THE QUARTER ENDED 30 SEPTEMBER 2023
(2/10/1/1/9)

(Page 45)

As per the compliance requirements, the Committee received a report on the achievement of targets set by different Clusters under the Service Delivery and Budget Implementation Plan 2023-24, and with the Report submitted relating to the first quarter ended 30 September 2023.

Accordingly,

COMMITTEE RECOMMENDS:

That in terms of the Local Government: Municipal Finance Management Act 2003, Circular No. 13, the Service Delivery and Budget Implementation Plan for the Quarter ended 30 September 2023, which reflects an overall achievement of 83.75% for the eThekweni Municipality, and with its entities, Inkosi Albert Luthuli International Convention Centre recording 91.67% achievement and the Durban Marine Theme Park (Ushaka Marine World), recording 75.00%, be noted, as per the breakdown reflected in the table below.

Summary of KPIs Per Plan:

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	100.00%
3A	Creating a Quality Living Environment - Trading Services	112.00%
3B	Creating a Quality Living Environment	75.00%
3C	Creating a Quality Living Environment - Strategy Office	50.00%
4A	Fostering a Socially Equitable Environment	100.00%
4B	Fostering a Socially Equitable Environment	80.00%
5	Supporting Design, Human Capital Development and Management	93.75%
6A	A vibrant and creative City - the foundation for sustainability and social cohesion	83.33%
6B	A vibrant and creative City - the foundation for sustainability and social cohesion	100.00%
6C	A vibrant and creative City - the foundation for sustainability and social cohesion	100.00%
7A	Good Governance and Responsive Local Government	75.00%
7B	Good Governance and Responsive Local Government	75.00%
7C	Good Governance and Responsive Local Government	100.00%

Plan No	Plan Name	Achievement Rate (%)
8	Financially Accountable and Sustainable City	50.00%
	Overall Achievement	83.75%

Plan No	Plan Name	Achievement Rate (%)
21	ICC	91.67%
22	DMTP (uShaka)	75.00%

The DA pointed out that the Service Delivery and Budget implementation Plan serves as a vital link to facilitate a process of holding administration accountable. Indication was then given that the Municipality was not seen doing much in terms of climate change issues.

Meanwhile, the ActionSA was of the view that the scoring achieved by the various Municipal Clusters does not seem to represent true reflection when comparing same with realities at community levels. Joining the discussion, His Worship the Mayor acknowledged that the Municipality is apparently facing many challenges and that some of these are of a global nature. However, His Worship appreciated resilience displayed by the City nevertheless and thus continuing achieving greatness, reference being made to the City winning a bid to host the 2025 World Water Summit. He also encouraged members to continue working tirelessly ensuring provision of sustainable service delivery to the communities.

In terms of assessment scoring, His Worship confirmed that this was in response to predetermined performance targets. That this was then true reflection of the commitments made in terms of performance plans. Speaking on unemployment levels, His Worship reported 9% reduction in unemployment, but acknowledging this was not felt on the ground, hence, more efforts were still required to achieve noticeable transformation, advising of continued engagements with the CEO's Forum with a view to improving great strides with the business fraternity.

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

SECOND REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2023-10-30)

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

1. REPORT OF THE ECONOMIC DEVELOPMENT AND PLANNING
COMMITTEE: MEETING HELD 2023-10-26

(Page R1)

1.1 Relocation of Royal AM Football Club from Durban to Pietermaritzburg and Resultant
Termination of Partnership Contract (20/1/4/3):
(Page 14: Economic Development and Planning Committee - Agenda 2023-10-26)

The eThekweni Municipality through Durban Tourism had a three-year destination promotion leveraging partnership with the Royal AM Football Club. It should be noted that the Royal AM FC notified Durban Tourism through a letter dated 2023-07-19 that they have received an offer for the Royal AM FC to relocate to Pietermaritzburg and utilize the UMsunduzi Municipality's Harry Gwala Stadium as their home venue. Due to this relocation, the City will no longer be able to continue achieving its initial objectives of this partnership.

It will be recalled that the key focus in partnering with the Royal AM Football Club and other sporting brands is to leverage and promote the Durban Brand and destination promotion for local economic development, which is in line with the IDP Plan 2 objective of growing the economy and creating jobs. Partnership and destination brand leveraging key specific objective of leveraging in sporting teams and their brands is to promote destination Durban as a world class tourism destination while they play the role of Durban Brand Ambassadors.

The City of eThekweni for the past two years has managed to yield leveraging from the partnership with the Royal AM FC, through destination branding logo placements on the team sleeve, wide range of on the field branding and team players and management destination promotion activations. The financial year 2023/2024 was going to be the last year of the partnership between the City and the Royal AM Football Club. With the current situation of the Royal AM Football Club playing their home games in Pietermaritzburg, the City will not be able to leverage from the team as the focus is on another competing City.

During discussion, the Committee questioned the implications of submitting this matter approximately three months later, with the notice having been received in July 2023, also the legal implications given the contractual obligations held. In response thereof, it was advised that the contract termination process could only be commenced upon the formalization of the Club's contract with the UMsunduzi Municipality. That the processing of this matter including this submission to the Council is based on the legal opinion given by the Legal & Compliance Unit, and that the obligations of the Partnership Agreement regarding cancellations will be invoked as well.

In view of the foregoing, the contract termination submitted was supported by the majority of the Executive Committee members, and with the EFF recording its abstention to take the matter to its Political Caucus.

Accordingly,

COMMITTEE RECOMMENDS:

1.1.1 That Council notes the decision by the Royal AM Football Club to relocate from Durban to the UMsunduzi Municipality's Harry Gwala Stadium as their home venue.

- 1.1.2 That Council notes the legal opinion given and advising that for the Economic Development and Planning Cluster to effect termination proposed by the Royal AM FC the Council decision is required, hence the submission of this recommendation to the Council.
- 1.1.3 That subject to .1 and .2 above, Council approves termination of the destination promotion leveraging partnership agreement between the eThekweni Municipality and the Royal AM FC as guided by the legal opinion and the contract obligations, it being noted that the line department keep a record of achievement of partnership deliverables during the year preceding termination.
- 1.1.4 That Council notes that the termination referred to in .3 above relates to the last year of the agreement i.e., 2023/2024 financial year and this to result in savings in the amount of R3 500 000.00 (Three Million Five Hundred Thousand Rand) and with the intention to channel this amount to other sporting partnerships to help Durban leveraging.

Financial Implications:

The total financial savings from this termination will be R3 500 000.00 (Three Million and Five Hundred Thousand Rand) excl. VAT which was going to be paid in this financial year. This will be channelled to other sporting partnerships to help Durban leverage.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

- 1.2 Request for Authority to Provide 3-Year Financial Support to the Durban Film Office for Industry Development Programmes (20/2/3:
(Page 4: Economic Development and Planning Committee - Agenda 2023-10-26)

Authority is sought to approve and support the Durban Film Office for the Industry Development Programmes in the 2023/2024, 2024/2025 and 2025/2026 financial years. The programmes involved include Micro Budget Film Fund; Development Fund, and Festivals & Markets Travel Support Programme.

The Durban Film Office (DFO) is the television and film-industry development arm of the eThekweni Municipality, mandated to position Durban as a world-class film and television production destination, and a facilitator for the development of the local film industry. The DFO has three (03) main development programmes targeting filmmakers at different levels in the industry, namely:

- **Development Fund:**
Supports intermediate to experienced producers based in eThekweni who need to develop features fiction or documentary projects or the local and/or international markets.
- **Micro Budget Film Fund:**
Supports local emerging filmmakers and encourages the production of local content and storytelling to stimulate the local film industry.
- **Festivals and Markets Travel Support Programme:**
To provide support for attendance in festivals and markets, exposing local filmmakers to international audience.

The objective of providing this support is the creation of a viable and economically sustainable film and television sector in the City, where eThekweni filmmakers are renowned for creating high-quality content, for local and international audience and for Durban to be recognised as a preferred destination for feature films and commercial media production. Through the Municipality's Film Grant In-Aid Fund for Industry Development Programmes, there has been an increase in the number of new entrants of aspiring filmmakers from the historically disadvantaged communities.

The overall economic impact of the Film Industry Development Programmes from 2014-2024 can be summarized as follows:

- **Funding and Skills Development Initiatives:**
The Durban Film Office has supported over 41 emerging film production companies with project funding and skills development initiatives since the commencement of this programme.
- **Job Creation:**
Each film production creates an average of 40 – 60 job opportunities during production and postproduction of a film.
- **Film Service Companies (Indirect Job Creation):**
Each production employs several indirect services such as equipment hire, hair and make-up, vehicle hire, location hire, catering etc.
- **Destination Marketing / Film Tourism:**
Film Productions promote eThekweni Municipality by using local locations such as the beaches, parks, markets, hidden gems located in the rural and township areas and showcasing unique architects and topography that can also be used as double locations. This has contributed to the growth of the tourism sector.

The Micro-budget Film Programme offers R250 000.00 (Two Hundred and Fifty Thousand Rand) for production of a feature length film and specifically targets fiction feature projects. It will run for a period of twelve (12) months with the aim of producing three (03) micro budget films per year.

The reasons for increased production costs are due to relative increases associated with equipment hire; inflation rates & fuel costs; increased use of artificial intelligence; special effects & stunts; location tariffs; e.g., beaches; parks; intellectual property protection & registration; film classification & ratings; post-production costs; marketing & distribution and music rights/scoring.

The recommendations to support the Durban Film Office was supported by the majority of the Members, and with the EFF and the IFP recording their abstentions for their Caucus processes.

Having noted the foregoing,

COMMITTEE RECOMMENDS:

1.2.1

That authority be granted for the Head (Economic Development) to continue supporting the Durban Film Office Development Programme, namely, Micro Budget Film Fund; Development Fund; and Festivals & Markets Travel Support Programme.

1.2.2 That subject to the approval of .1 above, Council approves the allocation of funding as per the categories outlines below:

- i) An amount of R350 000.00 (Three Hundred and Fifty Thousand Rand) be approved under the Micro Budget Film Fund and with this same amount to be allocated per project in the three (03) financial years starting from the 2023/2024 to 2025/2026, it being recorded that three (03) projects will be accommodated under this programme.
- ii) An amount of R250 000.00 (Two Hundred and Fifty Thousand Rand) be approved under the Development Fund and with this same amount to be allocated per project in the three (03) financial years starting from the 2023/2024 to 2025/2026, it being recorded that 02 projects will be accommodated under this programme.
- iii) An amount of R200 000.00 (Two Hundred Thousand Rand) be approved under the Festival and Market Travel Support Programme and with this same amount to be allocated per project in the three (03) financial years starting from the 2023/2024 to 2025/2026.

1.2.3 That subject to the approval of .1 to .4 above, authority be granted for the City Manager to conclude the necessary contractual agreements with the successful applicants under the Durban Film Office Industry Development Programmes as per the categories outlined.

1.2.4 That subject to the approval of .1 to .3 above, authority be granted for the Head (Economic Development) to disburse funding in accordance with the approved contractual agreements.

Development Programmes: Micro Budget Film Fund Development Fund Programme and Festival and Market Support. Vote No:

Business Unit	Item	Fund	Costing	Project	Region	Expenditure proposed	Financial Year(s)
26106	25030.17	12120	0000	63330	0010	R1 750 000.00	2023/24
26106	25030.17	12120	0000	63330	0010	R1 750 000.00	2024/25
26106	25030.17	12120	0000	63330	0010	R1 750 000.00	2025/26

FC No.: 2024/18/20

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

1.3 Request to Authorize 03-Year Destination Promotion Leveraging Sports Partnership and Sponsorship with Durban Sporting Bodies (KZN Sharks Rugby Team and Hollywoodbets Dolphins Cricket Team) (20/1/6/1):

(Page 10: Economic Development and Planning Committee - Agenda 2023-10-26)

Authority is sought to approve a three (03) year (2023/2024; 2024/2025 and 2025/2026) destination promotion leveraging sports partnership and sponsorship with Durban Sporting Bodies (KZN Sharks Rugby Team and Hollywoodbets Dolphins Cricket Team), subject to Teams' participation in National and International Premier competitions. Additionally, authority is sought for the City Manager or his delegatee to negotiate appropriate partnership mileage commensurate with the investment to be

made to the KwaZulu-Natal Sharks Rugby Team and the Hollywoodbets Dolphins Cricket Team.

The eThekweni Municipality strategically positions the City of Durban as the premium tourism, destination, events and sporting capital in South Africa. The key focus in partnering with national brands is to leverage and promote the Durban Brand and Destination promotion for local economic development which is in line with the IDP Plan 2 objective of growing the economy and creating jobs.

The partnership and destination brand leveraging has key specific objective of using Teams and their brands, and other assets to promote Destination Durban as a world class tourism destination while they play the role of Durban Brand Ambassadors. To remain ahead and relevant in its profile, the City thus continues with its marketing campaign of creating Durban Brand awareness in the minds of targeted visitors.

Tourism visitor numbers have significantly declined due to the COVID19 pandemic, and this partnership will assist the tourism industry to recover through various marketing initiatives to be done by these local sporting teams and Durban Tourism locally and internationally.

The City of Durban would yield benefits of brand exposure through this partnership with the KZN Sharks Rugby Team and the Hollywoodbets Dolphins Cricket Team, and therefore with the City of eThekweni to enjoy the rights listed below:

A: Partnership Benefits: KZN Sharks Rugby Team:

- a) Official Designation/Host City Rights.
- b) Durban Destination logo on the front position of the playing kit for all the local teams.
- c) LED Perimeter advertising boards at all home matches.
- d) Website link from sharksrugby.co.za to visitdurban.travel
- e) Durban Tourism opportunity to partner with Sharks during international matches for activation purposes to drive destination promotion.
- f) Durban Tourism opportunity to partner with Sharks during their away matches for activation purposes to drive destination promotion.
- g) Durban Tourism opportunity to conduct off field promotions on match days, including spectator concourse areas.
- h) Opportunity to place one canvas banner at the stadium
- i) Opportunity to engage with these local teams followers in their platforms to promote the destination such, i.e. to social media membership will be available to Durban Tourism, Supporters website. Teams Photographs-use of team and player photographs
- j) Opportunity to run Durban related banner adverts and promotions in national programs like Sharkbite TV program- each program will allocate 3 minutes to Durban Tourism.
- k) Durban Tourism use of a dedicated Suite for hosting and networking.
- l) Sharks team to make available 25 Silver zone Tickets, 5 Seats in the Presidents Suite.
- m) Team to facilitate at least one township match exhibition annually in partnership with Durban Tourism in effort to promote township tourism.

B: Partnership Benefits: KZN Dolphins Cricket Team:

- a) Durban Destination logo on back of Hollywoodbets Dolphins Mens team playing kit for all formats

- b) Durban Destination logo on sleeve of Hollywoodbets Dolphins Ladies team playing kit for all formats
- c) Durban Destination logo on sleeve of all Hollywoodbets Kingsmead Stadium ground staff
- d) Durban Destination logo on sleeve of all school representative Teams
- e) Durban Destination branding opportunities at the cricket stadium
- f) Durban Destination logo on Stairwell of South Stand
- g) 4 perimeter boards at Kingsmead Stadium
- h) LED advertising for all International matches
- i) Durban Destination logo on new West Stand Deck (approximately 1m x 20m).
- j) 10 x 10s messages on scoreboard for all domestic games hosted in Kingsmead Stadium
- k) 5 x 30s commercial on video replay screen for all televised domestic fixtures
- l) Durban Tourism opportunity to partner with Dolphins during their away matches for activation purposes to drive destination promotion.
- m) Durban Tourism opportunity to conduct off field promotions on match days, including spectator concourse areas.
- n) Use of Hospitality Suite for all domestic and international matches held at Hollywoodbets Kingsmead Stadium
- o) 17 x Hospitality Suite tickets
- p) 4 x Presidential Suite tickets for all domestic and international matches held at Hollywoodbets Kingsmead Stadium
- q) Video of Durban to be broadcasted during International matches
- r) 6 x Social media posts
- s) Logo on the field for all international matches

The Democratic Alliance (06) abstained on this matter at the Support Committee level, it being noted that the item was approved with the majority support of the ANC (14), EFF (01), IFP (02), ASA (01), ACDP (01), MOSA (01) and the AL-JAMAAH (01).

At the Executive Committee level, a request was submitted pertaining to the quantification of the benefits associated with this partnership to determine Return on Investment. Management then briefly touched on activities leveraged off the partnership, and which activities could have been charged on the Municipal account. However, it was agreed that full details with specific financial benefits would be submitted through a formal Report to be submitted to the Committee

Thereafter, with the EFF and the DA abstaining at this stage, with the majority support,

COMMITTEE RECOMMENDS:

- 1.3.1 That Council approves the 3-year destination promotion leveraging sports partnership and sponsorship between eThekweni Municipality and Durban Sporting Bodies, the KwaZulu-Natal Sharks Rugby Team in the amount of R4 300 000.00 (Four Million Three Hundred Thousand Rand) per each financial year and with the Hollywoodbets Dolphins Cricket Team in the amount of R3 000 000.00 (Three Million Rand) per each financial year in the period 2023/2024 to 2025/2026.
- 1.3.2 That authority be granted for the City Manager or his delegatee to negotiate benefits and rights to leverage the destination and profile Durban through these partnerships.

- 1.3.3 That authority be granted for the City Manager to conclude contracts with the KwaZulu-Natal Sharks Rugby Team and the Hollywoodbets Dolphins Cricket Team against the partnership investment.
- 1.3.4 That subject to the approval of .1 to .3 above, Council notes that the approval is subject to the Teams' continued participation in the national and international premier competitions.
- 1.3.5 That Council notes that the Dolphins will be funded for the first time, thus an adjustment required to reallocate funds previously allocated to the Royal AM Football Club now that the partnership contract with this club has been terminated.

Financial Implications:

The total financial implication would be R21 900 000.00 (Twenty One Million and Nine Hundred Thousand Rand) excl. VAT which will be paid over three years as per below.

TEAM & Vote Number	1 ST YEAR	2 ND YEAR	3 RD YEAR
KZN Sharks Vote No: 26723 24860.21 12120 0000 85520 0010	R4,3 Million (2023/24)	R4,3 Million (2024/25)	R4,3 Million (2025/26)
KZN Dolphins Vote No: 26723 24860.21 12120 0000 85520 0010	R3,0 Million (2023/24)	R3,0 Million (2024/25)	R3, 0 Million (2025/26)

FC No.: 2024/13/10

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

DIRECT EXCO REPORTS

2. NOTING OF REASONS TO AMEND CONTRACT NO: 7E-1464. 7H-1465 AND 7A-1348 IN TERMS OF SECTION 116(3) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT (MFMA) NO 56 OF 2003 FOR LEASE OF MUNICIPAL OFFICE PREMISES: THE EMBASSY BUILDING LOCATED ON 199 ANTON LEMBEDE STREET AND THE DELTA TOWERS LOCATED ON 303 DR PIXLEY KA-SEME STREET (17/2/2/5/1)

(Page 1)

The Embassy Building and the Delta Towers are used for office accommodation of the Human Settlements, Legal and Compliance, Real Estates and various other Municipal Units. The lease in these buildings is due to expire 31 December 2023.

In line with the Council's objective to accommodate offices in Municipal-owned properties with the intention to achieve cost-effectiveness, the Head: Real Estates advertised tenders to secure properties in February 2021 but both culminated in a non-award. Another advert was placed in April 2023 but again was unsuccessful hence approval of the non-award. With the Unit heeding a call by the Council to reduce the number of leased buildings, once again the tenders to secure office accommodation were advertised in June 2023 and are currently being processed. In view thereof, the Head: Real Estate is currently seeking permission for a 12-month lease extension on a month-to-month basis with respect to the Embassy Building and the Delta Towers Building, to enable cancellation in the event responsive tenderers are secured.

The Council is therefore requested to note below the reasons for extending the lease in question:

- a) The tenders for the procurement of space to accommodate the above-mentioned Units culminated in a non-award and there being no alternate Municipal-owned premises of that magnitude to accommodate the Units affected.
- b) Should the lease not be extended then the City will incur irregular expenditure due to there being no contract in place.
- c) The options of relocation are also limited due to a magnitude of office space required and some of the buildings within the CBD not compliant with Health and Safety requirements thus not suitable to house staff without raising serious health and safety concerns.
- d) It should also be noted that the office relocation will undoubtedly cause a disruption of service delivery considering the number of Units and staff occupying these buildings.

During discussion, the Committee requested to be furnished with a list of all Delta Towers buildings accommodating Municipal Offices. Further, that inspection be conducted since some of the buildings are not in good condition yet the Municipality is paying market-related rates for such.

The Report to be submitted was then to cover the buildings used for Municipal offices; the condition of the building; and the lease amount, which information will then be verified through inspection to be conducted by the Executive Committee.

On this basis, and noting a way forward recommended to determine value for money for the buildings leased to the Municipality,

COMMITTEE RECOMMENDS:

- 2.1 That Council notes the reasons to amend Contract 7E-1464, 7H-1465 and 7A-1348 in terms of Section 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, for the extension of the current lease contract with Delta Property Fund (Pty) Ltd in respect of the premises situated at Embassy Building and Delta Towers, 199 Anton Lembede Street and 303 Dr Pixley KaSeme Street in total extent 16044m² together with 250 parking bays for a period of twelve (12) months on a month to month basis for the following reasons:

- a) The tenders for the procurement of space to accommodate the above-mentioned Units culminated in a non-award and there being no alternate Municipal-owned premises of that magnitude to accommodate the Units affected.
- b) Should the lease not be extended then the City will incur irregular expenditure due to there being no contract in place.
- c) The options of relocation are also limited due to a magnitude of office space required and some of the buildings within the CBD not compliant with Health and Safety requirements thus not suitable to house staff without raising serious health and safety concerns.
- d) It should also be noted that the office relocation will undoubtedly cause a disruption of service delivery considering the number of Units and staff occupying these buildings.

2.2

That the public participation process was advertised on the 19th May 2023 through the media for the extension of the lease, in terms of Section 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, as part of achieving compliance requirements pertaining to the public participation on the process to invite public comments on the proposed contract extension and it being recorded that there were no objections received with regards to the proposed extension.

Financial Implications:

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

Real Estate Unit:

Basic Rental (Monthly)	Basic Rental (Annual)	Period
R1 121 000.00	R13 452 000.00	01 January 2024 – 31 December 2024
Parking Rental (Monthly)	Parking Rental (Annual)	Period
R148 750.00	R1 785 000.00	01 January 2024 – 31 December 2024

FC No.: 2024/03/26

Human Settlements Unit:

Basic Rental (Monthly)	Basic Rental (Annual)	Period
R266 000.00	R3 192 000.00	01 January 2024 – 31 December 2024
Parking Rental (Monthly)	Parking Rental (Annual)	Period
R25 500.00	R306 000.00	01 January 2024 – 31 December 2024

FC No.: 2024/04/04

Legal and Compliance:

Basic Rental (Monthly)	Basic Rental (Annual)	Period
R137 180.00	R1 646 160.00	01 January 2024 – 31 December 2024
Parking Rental (Monthly)	Parking Rental (Annual)	Period
R38 250.00	R459 000.00	01 January 2024 – 31 December 2024

FC No.: 2024/09/03

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

REPORT OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

1.

**MPAC QUARTERLY ACTIVITY REPORT FOR THE FIRST QUARTER ENDED
30 SEPTEMBER 2023 (2023/2024) FINANCIAL YEAR**
(as contained in the Council Agenda 2023-10-31)

Minutes - Council - 2023-10-31

September 30

2023

Report of the Municipal Public Accounts Committee (MPAC) for the first
quarter of 2023/2024 financial year: July to September 2023

2023/2024

TABLE OF CONTENTS

1. CHAIRPERSON'S STATEMENT
2. MEMBERSHIP AND MEETINGS OF THE MUNICIPAL PUBLIC
ACCOUNTS COMMITTEE
3. ROLE OF THE COMMITTEE
4. SUMMARY OF COMMITTEE ACTIVITIES FOR PERIOD
JULY 2023 TO SEPTEMBER 2023
5. MUNICIPAL PUBLIC ACCOUNTS COMMITTEE COMMENTS
AND FINDINGS FOR FIRST QUARTER OF 2023/2024
6. WORKSHOPS AND TRAINING
7. RECOMMENDATIONS

1. CHAIRPERSON'S STATEMENT

It is my pleasure to present the first Quarter Report of the Municipal Public Accounts Committee (MPAC) which records the activities undertaken by the Committee from July to September 2023.

We spent the past three months interrogating UIFW (Unauthorised, Irregular, Fruitless and Wasteful) expenditure incurred by the various Units of the Municipality and have to date written off approximately R2 billion worth of irregular expenditure. We have also identified approximately R25 million of irregular expenditure to be recovered. It is prudent to mention that the majority of irregular expenditure incurred arose from Units not following the required procurement processes as provided for by the Supply Chain Management (SCM) Regulations. We work closely with the City Integrity and Investigations team and have dealt with various transgressions that they identified during their investigations. It must be noted that all irregular expenditure matters are submitted to the Financial Misconduct Disciplinary Board for review.

Dealing with UIFW expenditure matters has required Members to attend a considerable number of additional meetings. A major challenge we have encountered has been the non-submission of reports. It must be noted that every item of irregular expenditure is interrogated individually in order for a recommendation to be made by the Committee. The poor response by some Units has hindered our work as we have rightfully insisted on written reports.

The Department of Cooperative Governance & Traditional Affairs (COGTA) has indicated that our Municipality has the second highest expenditure in the country and to this end, we are exercising diligent and stringent measures to try and change the status quo.

Councillor Thamisanqa Xuma
Chairperson: Municipal Public Accounts Committee
eThekweni Municipality

2. MEMBERSHIP AND MEETINGS OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

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

2.1 Membership of the Municipal Public Accounts Committee during the first quarter of 2023/2024:

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

2.2 Attendance of Members at Municipal Public Accounts Committee for the first quarter 2023/2024:

NAME	JUL 20	JUL 27	AUG 01	AUG 03	AUG 08	AUG 29	SEP 05	SEP 14	SEP 21
COUNCILLOR T XUMA	P	P	P	P	L	P	L	P	L
COUNCILLOR AD BEESLEY	P	P	P	P	P	P	P	L	L
COUNCILLOR SV DE BOER	P	P	P	P	P	P	P	L	L
COUNCILLOR CB DLAMINI	P	P	P	P	P	P	L	P	P
COUNCILLOR BA FORTEIN	L	L	A	P	L	P	P	P	P
COUNCILLOR SG GAMA	P	P	P	L	L	P	P	P	P
COUNCILLOR A KISSOON	P	P	P	L	P	P	P	P	P
COUNCILLOR B MKHWANAZI	L	A	P	L	P	P	P	L	L
COUNCILLOR J NAIDOO	P	P	P	P	L	P	L	L	P
COUNCILLOR KS SIBISI	P	P	P	L	P	P	P	P	L
COUNCILLOR M THUSI	L	P	P	P	A	P	L	P	P

3. ROLE OF THE COMMITTEE AND COMMENTS

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

4. SUMMARY OF COMMITTEE ACTIVITIES FOR PERIOD JULY 2023 TO SEPTEMBER 2023

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

Activity	Number
Reports Tabled	158
Deliberative Meetings	9
Interviews with Officials	60
Hearings	Nil
Briefings	Nil
Witnesses Appearing	Nil

5. MUNICIPAL PUBLIC ACCOUNTS COMMITTEE COMMENTS AND FINDINGS FOR THE FIRST QUARTER OF 2023/2024

5.1 MPAC Workplan 2023/2024:

As per the MPAC Workplan 2023/2024, the following reports were received and considered by Committee during the 1st quarter:

- Budget Statement Reports for the months ending May, June & July 2023
- Review of External Service Provider Performance Monitoring by Units within the Municipality for Quarter 3 & Quarter 4 of 2022/2023 Financial Year
- Unauthorised, Irregular, Fruitless and Wasteful Expenditure recommended for Write Off or Recovery as at 30 June 2023
- City Integrity and Investigations report for the 3rd and 4th quarter 2022/2023
- Disciplinary Board for Financial Misconduct for 3rd Quarter 2022/2023

5.2 Irregular Expenditure:

We scheduled special meetings to exclusively deal with UIFW expenditure. However, we continually faced the challenge of non-submission of reports by certain Units which hindered our progress greatly.

6. WORKSHOPS AND TRAINING

None.

7. RECOMMENDATIONS

COMMITTEE RECOMMENDS:

That Council notes the report of the Municipal Public Accounts Committee for quarter 1 of the 2023/2024 financial year, i.e., the period ended 30 September 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
- (vi) Interrogating report submitted by the Disciplinary Board on Financial Misconduct.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

2. ASSESSMENT OF MUNICIPAL PUBLIC ACCOUNTS COMMITTEE FUNCTIONALITY ON UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE (UIFW) OVERSIGHT PERIOD ENDING 30TH SEPTEMBER 2023 (QUARTER 1 OF 2023/24)
(as contained in the Council Agenda 2023-10-31)

The role and duties of MPAC, as stated in the UIFW expenditure process, have been documented in line with Section 32 (2) (ii) and (3) of the MFMA which states as follows:

2. *A municipality must recover unauthorised, irregular or fruitless expenditure and wasteful expenditure from the person liable for that expenditure unless the expenditure –*
- (a) *In the case of unauthorised expenditure, is –*
 - (i) *authorised in an adjustment budget; or*
 - (ii) *certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by Council; and*
 - (b) *In the case of irregular expenditure is, after investigation by a council committee, certified by the council as irrecoverable and written off by council.*
3. *If the accounting officer became aware that the council, the mayor or the executive committee of the municipality has taken a decision, which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing*

unauthorised, irregular or fruitless and wasteful expenditure provided the accounting officer has informed the council, the mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.

MPAC is identified as the Council Committee responsible for investigating and making recommendations to Council on the recovery or write off of UIFW related matters.

COGTA, whilst undertaking its oversight and monitoring role over municipalities, has been highlighting the views of National Government with regard to the reduction of UIFW expenditure and the implementation of consequence management.

It was, therefore, resolved at The Speaker's Forum convened on 2021-06-22 that COGTA would support municipal initiatives to reduce UIFW. A tool was developed by COGTA and the expectation was that all municipalities would use the tool to assess their functionality on UIFW oversight. Hence, MPAC is required to report quarterly to Council on its performance based on COGTA's tool for the assessment of functionality on UIFW Oversight.

It had been ascertained that the City may not have been fully compliant in its treatment of UIFW expenditure once it was incurred. Following workshops with National Treasury, the city aligned its process with National Treasury Circular 68 and the MFMA. There was also input from COGTA and the amended process was workshopped by Internal Control at the Mayoral Workshop held on 12th August 2021. Subsequently, the revised process was adopted by Council on 2021-08-26.

In terms of the assessment, MPAC's oversight role would be measured as follows:

- 80-100% - Functional
- 50-79% - Challenged
- 0-49% - Dysfunctional

As COGTA requires the assessment report to be submitted by the first quarter of the financial year 2023/2024, we have acceded to the request and completed the assessment.

We are proud to report, as per the Assessment of MPAC's functionality on UIFW Oversight, (**Annexure 1**), that MPAC has achieved 100% for the first quarter and is fully functional.

Therefore,

COMMITTEE RECOMMENDS:

That Council notes the Municipal Public Accounts Committee (MPAC) has achieved 100% in terms of the assessment of the MPAC by the Provincial Department of Cooperative Governance and Traditional Affairs for the period ended 30 September 2023, attached as Annexure 1 on the Report from the MPAC dated 26 October 2023, it being recorded key focus areas during the assessments included:

- (i) Statutory obligations pertaining to the functionality of the MPAC
- (ii) MPAC oversight of ongoing investigations

- (iii) MPAC oversight of the conclusion of investigations
- (iv) MPAC oversight of implementation and tracking of consequence management.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

3. 2023/2024 MUNICIPAL PUBLIC ACCOUNTS COMMITTEE WORK PLAN PROGRAMME
(as contained in the Council Agenda 2023-10-31)

Minutes - Council - 2023-10-31

2023/2024

TABLE OF CONTENTS

1. OUR MANDATE
2. IDP, BUDGET AND MUNICIPAL PERFORMANCE
3. ANNUAL FINANCIAL STATEMENTS
4. ANNUAL REPORT PROCESS
5. IN-YEAR REPORTING
6. AUDIT COMMITTEE
7. 2023/2024 MPAC WORK PROGRAMME

This Work Programme outlines the activities that will be undertaken by eThekweni Municipality's Public Accounts Committee in the 2023/2024 financial year.

Our Mandate

The key functions of the Municipal Public Accounts Committee are:

1. To review the municipal annual report with specific focus on the report of the auditor general;
2. To hold the municipal Executive and Administration accountable for their implementation of municipal policies and budget;
3. To develop recommendations to improve municipal finance administration.

National Treasury and the Department of Cooperative Governance and Traditional Affairs in their Guideline advise that the functions of MPAC are:

1. To consider and evaluate the content of the annual report and to make recommendations to Council when adopting an oversight report on the annual report;
2. In order to assist with the conclusion of matters that may not be finalised, information relating to past recommendations made on the Annual Report must also be reviewed. This relates to current in-year reports, including the quarterly, mid-year and annual reports;
3. To examine the financial statements and audit reports of the municipality and municipal entities, and in doing so, the committee must consider improvements from previous statements and reports and must evaluate the extent to which the Audit Committee's and the Auditor General's recommendations have been implemented;
4. To promote good governance, transparency and accountability in the use of municipal resources;
5. To recommend or undertake any investigation in its area of responsibility, after reviewing any investigation report already undertaken by the municipality or the Audit Committee; and
6. To perform any other functions assigned to it through a resolution of council within its area of responsibility.

Our Terms of Reference as approved by Council are:

- 1.1 To examine the following documents:
 - (a) Audit Reports on Annual Financial Statements of the Municipality and its Entities;
 - (b) Audit opinion, other reports and recommendations from the Audit Committee;
 - (c) Any reports issued by the Auditor General on the affairs of the Municipality and its Entities;
 - (d) Any report on the outcome of any investigation relating to the financial affairs of the Council;

- (e) The annual reports and information on performance of the Municipality and of any Municipal Entity under the Municipality's shared or sole control;
 - (f) The Mayor's quarterly reports on the implementation of the budget and the financial state of affairs of the Municipality; and
 - (g) Any other financial statements or reports referred to us by the Council;
 - (h) Any information relating to personnel; books of account, records, assets and liabilities of the Council and to any other source of relevant information that may be required for the purpose of fulfilling its mandate;
 - (i) Information in respect of any disciplinary action taken in terms of the Municipal Finance Management Act.
 - (j) Report on and/or make recommendations in relation to any of the reports or financial statements which it may examine to Council.
- 1.2 To report on and/or make recommendations in relation to any of the reports or financial statements which it may examine to Council.
- 1.3 In our examination (mentioned in .2 above) we must take into account previous statements and reports and consider the degree to which previously identified shortcomings have been rectified and report our findings to Council.
- 1.4 To initiate and develop the Annual Oversight Report on the Municipality's Annual Report.
- 1.5 To initiate investigations into any matter falling within its terms of reference including projects requested by the Executive Committee and Council. To recommend or undertake any investigation after reviewing any investigation report already undertaken by the Municipality or Audit Committee.
- 1.6 To consider any Audit Committee recommendations referred to us and render an opinion on such recommendations.
- 1.7 To hold meetings that are open to the public unless we agree to have a closed session/in-Committee.
- 1.8 To co-opt advisory members or experts to advise us in our deliberations provided that such persons may not vote on any matter.
- 1.9 To call upon/summon Councillors; Officials; Department Heads and/or Heads of Municipal Entities to assist us in the execution of our functions.

IDP, Budget and Municipal Performance

A municipal council is required to review its integrated development plan (IDP) annually. We will ensure that the review is undertaken.

As the annual budget of a municipality must be informed by the IDP adopted by the municipal council we will review the draft annual budget to ensure that is aligned to the IDP.

We will monitor the preparation of the annual performance plan.

The implementation of the budget and the performance of the municipality will be monitored by examining the following documents:

1. Monthly budget statements
2. Quarterly reports
3. Mid-year budget and performance assessment reports of the municipality and entities
4. Annual report

Annual Financial Statements

We will examine the annual financial statements of the Municipality and its Entities and ensure that they have been submitted timeously to the Auditor General.

In addition, we will ensure that the necessary disclosures have been made in the financial statements including:

1. salaries, allowances and benefits of political office bearers, Councillors and boards of directors of municipal entities;
2. any arrears owed by individual Councillors to the municipality or entity for rates and services, which at any time were outstanding for more than 90 days;
3. salaries allowances and benefits of the municipal manager, CEOs of municipal entities, CFO and every senior manager;

Annual Report Process

As the Auditor General's report is our key oversight tool, we will:

1. Obtain a briefing on the audit findings, identified problems and recommendations from the Auditor General;
2. Refer matters to the Audit Committee for investigation;
3. Prepare and refer policy matters to relevant Committees for their perspective and input;
4. Refer preliminary questions with time frames to the City Manager;
5. Analyse responses to preliminary questions;
6. Call upon the City Manager and Heads of Units to respond and to act upon audit queries and recommendations;
7. Hold public hearings;
8. Compile the Oversight Report;

In-year monitoring

During the course of the year we will invite the City Manager to report on:

1. Policy and budget implementation;
2. Implementation of audit recommendations and Council resolutions;
3. Unforeseen and unavoidable expenditure
4. Unauthorised, irregular, fruitless and wasteful expenditure;
5. Disciplinary action instituted in terms of the MFMA
6. Implementation of investigation recommendations.

Audit Committee

The technical expertise, support and advice provided by the audit committee in its quarterly reports and engagements with us will assist us to fulfil our mandate and to capacitate us.

COMMITTEE RECOMMENDS:

That the Municipal Public Accounts Committee (Work Programme 2023/2024) be noted and it being reported that the Work Plan Programme include the following:

- (i) MFMA Section 29: Unforeseen and unavoidable expenditure
- (ii) MFMA Section 32: Unauthorised, irregular or fruitless and wasteful expenditure
- (iii) MFMA Section 52(d): The quarterly report of the mayor on the implementation of the budget and state of affairs of the municipality/SDBIP
- (iv) MFMA Section 71: Monthly budget statements
- (v) MFMA Section 72: Mid-year budget and performance assessment
- (vi) MFMA Section 88: Mid-year budget and performance assessment of the municipal entities
- (vii) MFMA Section 124: Disclosures concerning Councillors, directors and officials
- (viii) MFMA Section 126: Submission and auditing of annual financial statements
- (ix) MFMA Section 127: Submission of the annual report
- (x) MFMA Section 129: Oversight report on the annual report
- (xi) MFMA Section 131: Issues raised by the Auditor General in audit reports
- (xii) Interrogate Audit Committee reports to be informed of matters requiring the attention of the Council and to be capacitated
- (xiii) Disciplinary action instituted in terms of the MFMA
- (xiv) SCM Section 116(2)(b): Monitor the review of the performance of external service providers
- (xv) Interrogate the following aspects addressed in Municipal Systems Act:
 - (a) MSA Section 34: Monitor whether EXCO has initiated the annual review of the IDP

- (b) Regulation 6 of LGMPPMR: Review the draft annual budget and ensure that it is informed by the IDP adopted by the municipal Council
- (c) MSA Section 54 read with item 7 of Schedule 1: Monitor whether all Councillors have completed their declaration of interest forms and updated them where necessary
- (xvi) Prepare an Annual Work Plan for 2024/2025
- (xvii) Capacity Building: Attend training courses as outlined in the MPAC Skills Development Plan
- (xviii) Undertake oversight visits to ensure accountability and compliance with good governance within the Municipality and its Entities
- (xix) Performance Monitoring: Evaluate the Committee's performance
- (xx) Special Meeting; To conduct public hearings; To consider issues raised by the Auditor General; To consider outstanding matters; To consider matters reported to MEC; and
- (xxi) Monitor the implementation of consequence management matters

MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) WORK PLAN: 2023/2024

	Deliverable	Statutory Reference	Purpose	Jul 2023	Aug 2023	Sept 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Responsibility
1	Municipal Finance Management Act (MFMA)															
	1.1 Unforeseen and unavoidable expenditure: <ul style="list-style-type: none"> Interrogate reports of any unforeseen and unavoidable expenditure incurred including proof of the necessary appropriation in an adjustment budget 	MFMA s29	For review and recommendation to Council		X							X				CFO
	1.2 Unauthorised, irregular or fruitless and wasteful expenditure: <ul style="list-style-type: none"> Interrogate reports of any unauthorised, irregular or fruitless and wasteful expenditure by the Council, the Mayor, Executive Committee or any political office bearer of the municipality Obtain reports from the Municipal Manager on all steps taken to either authorise or certify the payment or to recover or write off the expenditure Receive reports from the Municipal Manager on whether any criminal action was instituted in this regard 	MFMA s32	For review and recommendation to Council		X									X	X	Mayor and City Manager

	Deliverable	Statutory Reference	Purpose	Jul 2023	Aug 2023	Sept 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Responsibility
	and report to the Council on the appropriateness of any criminal or civil steps taken and reported where no further action was taken and why															
	1.3 The quarterly report of the mayor on the implementation of the budget and state of affairs of the municipality/SDBIP: <ul style="list-style-type: none"> Interrogate the quarterly report of the Mayor on the implementation of the budget and the state of affairs of the municipality and recommendations be made to Council Ensure that necessary amendments to the SDBIP are attended to by the Mayor and submitted to Council with proposals for the budget 	MFMA s52(d)	For review and recommendation to Council	X			X			X			X			Mayor, CFO and City Manager
	1.4 Monthly budget statements: <ul style="list-style-type: none"> Interrogate the monthly budget statements and report any matter of concern on the statement to the Council 	MFMA s71	For review and recommendation to Council	X	X	X	X	X	X	X	X	X	X	X	X	Mayor, CFO and City Manager

[illegible]

	Deliverable	Statutory Reference	Purpose	Jul 2023	Aug 2023	Sept 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Responsibility
	<ul style="list-style-type: none"> Arrears owed by individual Councillors by the Municipality for more than 90 days Salaries, allowances and benefit of the Municipal Manager, CFO, DCMs and Senior Managers Salaries, allowances and benefits of the board of Directors of Municipal entities Salaries, benefits and allowances of the chief Executive Officer and Senior Managers of Municipal entities 															
	1.8 Submission and auditing of annual financial statements: <ul style="list-style-type: none"> Receive the annual financial statements of the Municipality and all its entities that are submitted to the Auditor General of South Africa (AGSA) 	MFMA s126	For review and recommendation to Council						X							CFO and City Manager
	1.9 Submission of the annual report: <ul style="list-style-type: none"> Receive the annual report no later than the second of February 2023. 	MFMA s127									X					City Manager

	Deliverable	Statutory Reference	Purpose	Jul 2023	Aug 2023	Sept 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Responsibility
	<ul style="list-style-type: none"> Monitor that the annual report has been submitted to the AGSA, as well as the provincial government departments required and has been published for comment 															
	1.10 Oversight report on the annual report: <ul style="list-style-type: none"> Consider the annual report and prepare a draft oversight report to be submitted to the Council for purposes of adopting the oversight report 	MFMA s129 N.T. Circular 32	For review and recommendation to Council							X	X	X				City Manager
	1.11 Issues raised by the Auditor General in audit reports: <ul style="list-style-type: none"> Interrogate report prepared to address issues raised by the AGSA and make recommendations to the Council 	MFMA s131	For review and recommendation to Council			X			X			X			X	City Manager and CFO
	1.12 Audit Committee: <ul style="list-style-type: none"> Interrogate audit committee reports to be informed of matters requiring the attention of the Council and to be capacitated 			X			X			X			X			

[illegible]

	Deliverable	Statutory Reference	Purpose	Jul 2023	Aug 2023	Sept 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Responsibility
	<ul style="list-style-type: none"> Monitor whether EXCO has initiated the annual review of the IDP 		ation to Council													
	3.2 Monitor that the annual budget is informed by the IDP: <ul style="list-style-type: none"> Review the draft annual budget and ensure that it is informed by the IDP adopted by the municipal Council 	Regulation 6 of LGMPPM R	For review and recommendation to Council									X	X			Mayor, CFO and City Manager
	3.3 Monitor that all declaration of interest forms are completed by Councillors: <ul style="list-style-type: none"> Monitor whether all Councillors have completed their declaration of interest forms and updated them where necessary 	MSA s54 read with item 7 of Schedule 1	For monitoring								X				X	Speaker and City Manager
4	MPAC Annual Plan: <ul style="list-style-type: none"> Prepare an annual work plan for 2024/2025 		Approval by Council											X	X	Chair of MPAC
5	Capacity Building: <ul style="list-style-type: none"> Attend training courses as outlined in the MPAC Skills Development Plan 		As and when required													Secretariat and Office of the Speaker

	Deliverable	Statutory Reference	Purpose	Jul 2023	Aug 2023	Sept 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Responsibility
6	Oversight Visits: <ul style="list-style-type: none"> Undertake oversight visits to ensure accountability and compliance with good governance within the Municipality and its Entities 		As and when required													MPAC Secretariat
7	Performance Monitoring: <ul style="list-style-type: none"> Evaluate the Committee's performance 														X	MPAC
8	Special Meetings: <ul style="list-style-type: none"> To conduct public hearings To consider issues raised by the Auditor General To consider outstanding matters To consider matters reported to MEC 		As and when required													MPAC Secretariat
9	Consequence Management <ul style="list-style-type: none"> Monitor the implementation of consequence management matters 		For monitoring	X	X	X	X	X	X	X	X	X	X	X	X	Deputy City Manager CHC

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

REPORT OF THE ETHICS COMMITTEE

(Meeting held on 2023-09-18)

1. OUTSTANDING CASES : ALLEGED BREACH: CODE OF CONDUCT FOR COUNCILLORS COMMUNITY ENGAGEMENTS HELD OVER QUARTER ONE OF 2022/2023 FINANCIAL YEAR : JULY - SEPTEMBER 2022) (3/4/6)
(as contained in the Council Agenda 2023-10-31)

1. INTRODUCTION

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

In fulfilling this role, Councillors must be accountable to local Communities and report back at least quarterly to constituencies on Council matters, including the performance of the Municipality in terms of established indicators." As part of fulfilling their obligations to the Community, Councillors are required to support the achievement by the Municipality of its objectives, must adhere to the Code of Conduct for Councillors, to comply with the Rules of Order, the By-Laws of the Municipality and at all times to respect the Rule of Law.

2. BACKGROUND

- 2.1 The Municipal Council will recall that on 2023-08-15, the Ethics Committee had a total of five (5) outstanding cases which was yet to be concluded for Quarter One (July - September 2022) and for a report back to be provided on its findings and recommendations.

- 2.2 On 2023-09-18, the Ethics Committee held hearings in respect of the outstanding cases involving three (3) Councillors namely, A Beetge, RD Macpherson and S Mthethwa.

For the matter relating to Councillor M Ngiba, Council will recall that at a previous Council meeting held on 2023-05-26, there was an allegation of which resolution had requested for the removal of Councillor Ngiba from Office in line with Item 16(2)(e) of Schedule 7: Code of Conduct for Councillors contained in the Local Government: Municipal Structures Act, No. 117 of 1998 subject to the concurrence by the MEC for Co-operative Governance & Traditional Affairs. Therefore, with it being noted that whilst the outcome of the Council decision of the MEC: Co-operative Governance & Traditional Affairs was still pending, the Ethics Committee decided to hold Councillor Ngiba's matter in abeyance.

- 2.3 For the matter involving Councillor TJ Mnguni, for the Municipal Council to note that the hearing remains inconclusive due to further information being awaited in the finalization of this matter, it being noted that pending conclusion of its case against the Councillor, further reporting would be made to the Municipal Council on its findings and recommendations.

- 2.4 On 2023-04-20, the Ethics Committee considered the matter involving Councillor S Govender relative to the alleged breach of the Code of Conduct for Councillors Community engagements held over Quarter One (July - September 2022). However, due to an oversight in the inclusion of Councillor Govender's matter in its Report to Council meeting held on 2023-08-15, the matter is before the Municipal Council for adoption.

- 2.5 The Municipal Council to note that the Ethics Committee applied the principles of natural justice whilst undertaking the abovementioned Inquiry sessions and the respective Councillors had been advised of their rights to appeal the sanctions imposed in relation to the breaches, in line with Section 16(4)(a) of Schedule 7, Code of Conduct for Councillors.

3. HEARINGS

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

3.1 COUNCILLOR ANDRE BEETGE

3.1.1 Breach One:

It is alleged that Councillor A Beetge failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 97) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.1.2 Breach Two:

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

3.1.3 Plea on the breach by Councillor A Beetge:

- i) In pleading to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 97) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Beetge pleaded **NOT GUILTY**.
- ii) In pleading to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Beetge pleaded **NOT GUILTY**.

The Committee considered factors and evidence presented before it through the Evidence Leader as well as Councillor Beetge submission, Councillor Beetge was indeed guilty of breach one and found to be not guilty for breach two raised against him pertaining to Quarter One (July – September 2022).

Accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council approves that Councillor Beetge be issued a **formal written warning** in respect of **Breach One**, pertaining to failure to hold and report on one Community engagement held over Quarter One (July - September 2022).

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

3.2 COUNCILLOR RORY DEAN MACPHERSON

3.2.1 Breach One:

It is alleged that Councillor RD Macpherson failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 102) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.2.2 Breach Two:

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

3.2.3 Plea on the breach by Councillor RD Macpherson:

The Ethics Committee noted that Councillor Macpherson's Ward (Ward 102) was reported to have held Community meetings for Quarter One (July - September 2022). Under the circumstances, it appeared that Councillor Macpherson was erroneously summoned to appear before the Committee. Therefore, having considered the factors and evidence before it through the Evidence Leader, Councillor Macpherson was not implicated for having breached the Code of Conduct for Councillors and the Charges held against Councillor Macpherson for breaches one and two for not holding Community engagements and reporting as required, was withdrawn.

Accordingly,

COMMITTEE RECOMMENDS:

That the Municipal Council notes the **withdrawal** of the alleged breaches in the matter involving Councillor RD Macpherson for failure to hold and report on one Community engagement as the Councillor did hold meetings for Quarter One (July - September 2022) as required and did not contravene Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act No. 117 of 1998 (as amended).

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

3.3 COUNCILLOR SIZWE STANLEY SANDISELE MTHETHWA

3.3.1 Breach One:

It is alleged that Councillor SSS Mthethwa failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 86) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.3.2 Breach Two:

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

3.3.3 Plea on the breach by Councillor SSS Mthethwa:

- i) In pleading to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 86) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Mthethwa pleaded **NOT GUILTY**.
- ii) In pleading to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Mthethwa pleaded **GUILTY**.

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

Accordingly,

COMMITTEE RECOMMENDS:

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

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

3.4 COUNCILLOR SATHASIVAN GOVENDER

3.4.1 Breach One:

It is alleged that Councillor S Govender failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 70)

on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended) which is in contravention of Section 2(b) of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended).

3.4.2 Breach Two:

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

3.4.3 Plea on the breach by Councillor S Govender:

- i) In pleading to the allegations contained in breach one of the Charge Sheet that he failed to hold at least one meeting per quarter for period July 2022 to September 2022 and to report back to his local Community (Ward 70) on Council matters as required in terms of the preamble of Schedule 7 of the Municipal Structures Act 3 of 2021 (as amended), Councillor Govender was found to be **GUILTY**.
- ii) In pleading to the allegations contained in breach two of the Charge Sheet that he failed to make representations to the Ethics Committee when required to do so by close of business on 1 November 2022 in terms of a letter issued by the Ethics Committee dated 21 October 2022, of which was duly served on the same date, thereby contravening Section 2(b) of Schedule 7 of the Municipal Structures Act 2 of 2021 (as amended), Councillor Govender was found to be **GUILTY**.

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

On that basis,

COMMITTEE RECOMMENDS:

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

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

- 4.1 The Municipal Council notes that out of its five (5) outstanding cases, three (3) cases had been concluded for Quarter One (July - September 2022). A further case is currently pending for the said Quarter due to information awaited and upon conclusion of the above Inquiry, reporting will be made to the Municipal Council on its findings and recommendations.

On that basis,

COMMITTEE RECOMMENDS:

- 4.1.1 That Council notes that there is one (1) outstanding case of the Ethics Committee relative to the alleged breach in respect of Councillors not holding and reporting at least one Community meeting over Quarter One (July - September 2022) in terms of Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No.117 of 1998 (as amended).
- 4.1.2 That Council notes that upon finalization of the hearings alluded to in .1 above, a Report with findings and recommendations will be submitted accordingly to the Municipal Council for consideration.
- 4.1.3 That Council approves the recommendations of the Ethics Committee arising from the outcome of the Hearings conducted on 2023-04-20 and 2023-09-18 in respect of the Alleged Breach of the Code of Conduct for Councillors due to failure by certain Councillors to convene Community Engagements during Quarter One (1) of the 2022/2023 Financial Year (July - September 2022), and with specific outcomes being recorded as follows:-

Item No.	Name of Councillor	Plea by Councillor	Sanction
3.1	Councillor A Beetge	Plea 1: Not Guilty Plea 2: Not Guilty	Formal Written Warning
3.2	Councillor RD Macpherson	Plea 1: Withdrawn Plea 2: Withdrawn	Item Withdrawn
3.3	Councillor SSS Mthethwa	Plea 1: Not Guilty Plea 2: Guilty	Reprimanded
3.4	Councillor S Govender	Plea 1: Councillor not present, hence was found to be Guilty. Plea 2: Councillor not present, hence was found to be Guilty.	A Fine of R2 500,00 Subject to a behaviour of the Councillor, a further fine of R2 500,00 be suspended for disrespecting the Ethics Committee by not attending the scheduled hearing, as per Council decision taken on 2023-08-15.

- 4.1.4 That in view of .3 above, the outcome revealed that three (3) Councillors have been found to be in breach of the Code of Conduct for Councillors for failing to convene Community Engagements during the aforesaid period, and with the sanctions ranging from a formal

written warning, reprimanded and the imposition of a fine of R2 500,00 (Two Thousand Five Hundred Rand), depending on the severity of the breach and the Conduct for Councillors, with the full details being reflected in the table alluded to .3 above, it being recorded that one (1) Councillor's matter was withdrawn due to the Councillor not being implicated for having breached the Code of Conduct and was erroneously summoned to appear before the Ethics Committee.

- 4.1.5 That, it being noted that the three (3) Councillors in breach of the Code of Conduct for Councillors and sanctioned accordingly, have a right to appeal to the MEC for Co-operative Governance & Traditional Affairs, within a period of fourteen (14) days upon receiving official notification of the Council decision, and to give reasons for appealing the Council decision.
- 4.1.6 That, in noting the previous allegations held against Councillor M Ngiba and the pending decision of MEC: Co-Operative Governance & Traditional Affairs for the removal of Councillor M Ngiba from Office, Council notes the alleged breach in respect of Councillor M Ngiba for not holding and reporting at least one Community meeting over Quarter One (July -September 2022) in terms of Schedule 7: Code of Conduct for Councillors as contained in the Local Government: Municipal Structures Act, No. 117 of 1998 (as amended), to be held in abeyance subject to the concurrence by the MEC for Co-operative Governance & Traditional Affairs' decision on the Council resolution dated 2023-05-31.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

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

1. NOTICE OF MOTION: PROPOSED BY COUNCILLOR GJ HEGTER AND
SECONDED BY COUNCILLOR ZA SOLOMON : (26/1/2/2)

This Council noting that:

Ethekwini has seen a drastic increase of trucks entering residential areas and trucking companies opening in these areas, predominantly in the South Durban Basin. This is not only resulting in extensive damage to infrastructure but is also endangering lives and livelihoods in these residential areas.

Hereby resolves that the Security and Emergency Services Committee investigates the following and report back to Council:

1. Increase the amount of Metro Police Members in the Clairwood Trucking Unit.
2. Increase the number of Metro Police vehicles at the Clairwood Trucking Unit.

3. Approach the KZN Department of Transport for additional enforcement agents stationed around the Durban Harbour.
4. Urgent finalization a Metro Police heavy vehicle towing contract.
5. Erection of mass restriction signage along all entrances roads to residential areas in the Durban South Basin.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

2. NOTICE OF MOTION: PROPOSED BY COUNCILLOR ZM MNCWANGO AND SECONDED BY COUNCILLOR BG KUBHEKA : (13/2/1/2/1)

This Council noting that:

1. The Municipality and Durban ICC signed a Memorandum of Agreement (MOU) to host Women's Month launch with the aim to use ratepayers' money to fund African National Congress Women's League (ANCWL) elective Conference.
2. The MOU committee the Municipality to pay R5 089 781.40 (Five Million and Eighty Nine Thousand Seven Hundred and Eighty One Forty Cents) and final invoice to be settled by the City is R4 794 824.21 (Four Million Seven Hundred and Ninety Four Thousand Eight Hundred and Twenty Four Rand Twenty One Cent)

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

1. The failure of the Directors to perform their duties as per Municipal Systems Act, Section 93H(a)(b)(c)(d).
2. The process of Removal or recall of Directors in terms of Municipal Systems Act, Section 93G or any other applicable laws.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

3. NOTICE OF MOTION: PROPOSED BY COUNCILLOR TM MTHETHWA AND SECONDED BY COUNCILLOR M BILLY : 21/12/2/R)

This Council noting that:

An illegally occupied building in the City of Johannesburg recently caught fire and sadly killed 76 (seventy six) occupants. eThekweni has several dilapidated and illegally occupied government and private buildings, including 44 Lancers Road building occupied by 300 (three hundred) people.

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

1. The Council accepts that dilapidated and illegally occupied buildings pose a danger to communities.
2. An urgent audit of all dilapidated buildings be conducted by the City and a plan provided to eliminate such buildings.
3. Occupants of 44 Lancers building comprising children and the elderly be moved to alternative accommodation as per the Court's directive to avoid tragedy.

In view of time constraints, consideration of the matter was DEFERRED to the next virtual Council meeting and on a date still to be announced.

REPORT OF COMMITTEE DECISIONS

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

1. **COMMUNITY SERVICES COMMITTEE**

Meeting held on : 2023-09-20

2. **EXECUTIVE COMMITTEE**

Meetings held on : 2023-09-19
: 2023-09-26
: 2023-09-27
: 2023-10-16

3. **FINANCE COMMITTEE**

Meeting held on : 2023-09-20

4. **LOCAL LABOUR FORUM: COMMUNITY AND EMERGENCY SERVICES CLUSTER**

Meeting held on : 2023-10-17

5. **LOCAL LABOUR FORUM: TREASURY & OFFICE OF THE CITY MANAGER CLUSTER**

Meeting held on : 2023-09-08

6. **SECURITY AND EMERGENCY SERVICES COMMITTEE**

Meeting held on : 2023-09-21

7. SPEAKER'S COMMITTEE

Meetings held on : 2023-08-14
2023-08-21

ITEMS FOR NOTING

The Items for Noting, reflected on Pages 49 to 64 of the Agenda, pertaining to the items discussed and resolved at the Executive Committee level during the month of September and October 2023 were, **DEFERRED.**

The meeting terminated at 17h40.

APPROVED AT THE MEETING OF THE ETHEKWINI COUNCIL ON 2023-12-11.

SPEAKER