

**No. 41**

# **MINUTES**

## **OF**

### **ETHEKWINI MUNICIPAL COUNCIL**

Meeting held on Thursday, 2023-07-13T10:00 at  
Inkosi Albert Luthuli International Conventional Centre, Durban.

**PRESENT :** Councillors BT Ntuli (Acting Speaker), TM Kaunda (Mayor), A Abdul, J Annipen, 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, CB Dlamini, Z Dzanibe, J Essop, BA Fortein, SN Gabela, SG Gama, GM Gasa, DM Gcabashe, FO Gcabashe, NBC Godlwana, R Gokool, S Govender, SV Govender, Y Govender, BR Gumede, S Gumede, BM Gwala, MS Gwala, GJ Hegter, MM Hlengwa, NP Hlomuka, SD Hlongwa, F Ismail, MF Ismail, LBS Jali, DM James, M Johnson, MA Mgobhozi, K Khambule, MN Khubisa, KNN Khuboni, NL Khuzwayo, ZW Khuzwayo, SNC Khwela, A Kissoon, BG Kubheka, V Kunju, CJ Laing, SW Lushaba, M Lutchmen, WM Luthuli, ME Mabaso, MA Madlala, NI Madlala, SR Madlala, RP Maharaj, S Maharaj, FN Majola, HS Makhathini, TG Makhanya, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, KT Mbhele, RP Mbonambi, BA Mchunu, JL Mchunu, NP Mchunu, SW Mcineka, RL McKenzie, X Mdlazi, FW Mdletshe, DL Mea, SP Mfeka, K Mhlaba, DPM Mhlongo, GN Mhlongo, SE Mhlongo, T Miya, MB Mjadu, AZ Mkhize, KV Mkhize, MA Mkhize, ME Mkhize, MP Mkhize, NA Mkhize, NN Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, BR Mngadi, DF Mngadi, E Mngadi, S Mngadi, MR Mngonyama, TJ Mnguni, ZM Mncwango, DP Mngoma, BV Mngwengwe, ZO Mnomiya, S Mnyandu, T Mohamed, SR Moodley, R Moses, ND Motseke, SB Mpanza, LI Msomi, DV Msweli, LG Mthembu, SSS Mthethwa, TD Mthethwa, TM Mthethwa, N Munien, SK Mzimela, BD Naidoo, V Ncukana, NB Ndlela, AB Ndlovu, MF Ndlovu, PB Ndlovu, NS Ndlovu, V Ndlovu, SG Nene, TH Nene, SB Ngcongo, S Ngema, DB Ngubane, LE Nkomeni, DR Nowbuth, XM Nqweniso, DM Nsundwane, SH Ntombela, PC Ntshangase, N Ntuli, NZ Ntuli, PB Ntuli, B Nxumalo, MR Nxumalo, PH Nxumalo, NN Nyanisa, MV Nzimande-Madlala, AE Peterson, BW Phewa, DT Pillay, P Pillay, A Rampersad, VG Reddy, S Sewshanker, A Shaheed, BH Shange, LP Shange, MG Shange, TE Shezi, IM Shinga, HP Shoji, JN Sibisi, KS Sibisi, WP Sibiya, LC Sikakane, BSB Sindane, J Singh, S Singh, PS Sishange, CN Sisoka, NI Sithole, BS Sivetye, EG Smith, AD Snyman, ZR Sokhabase, ZA Solomon, I Syed, BB Thusi, ME Thusi, M Thusi, ZN Tshazela, NT Tyelinzima, JC Van den Berg, HM Van Der Ryst, NB Vilakazi, NI Webster, TV Xulu, T Xuma, GN Zondi, M Zondi, N Zondi, ON Zondi-Mthembu, TG Zungu and there being two (02) vacancies.

**ABSENT :** Councillors T Nyawose (Speaker – Indisposed); R Cloete, SV De Boer, G Govender (Indisposed), NC Gumede (Indisposed), MH Khan, RD Macpherson, A Maharajh, NM Mhlongo, SV Mngadi, NP Msomi, OB Mvubu (Personal Commitments), ZP Myeni (Indisposed), J Naidoo (Indisposed), PC Ndlovu (Indisposed), MS Nkosi (Indisposed), AAK Paruk

(Personal Commitments), GDA Pullan, T Sabelo, EL Singh, SM Windvogel (Indisposed) and NY Young.

AMAKHOSI

PRESENT : None

AMAKHOSI

ABSENT : Inkosi JJ Shangase; Inkosi S Mlaba and Inkosi EB Shozi.

OFFICIALS

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

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**At this stage of the proceedings, time being 10h10, the City Manager reported that the Speaker of Council was indisposed and requested Council members to kindly take their seats to enable Secretariat to confirm the number of Councillors present in this meeting.**

(Thereafter, at the commencement of the meeting 189 Councillors were declared present, comprising of the ANC - 80, DA - 50, EFF - 21, IFP - 14, ASA - 03, ABC - 02, ACC - 02, ACDP - 02, AIC - 02, ADEC - 01, APF - 01, ATM - 01, AL JAMA-AH - 00, DLC - 01, JEP - 01, KZNI - 01, MF - 01, MOSA - 01, NFP - 00, PFP - 01, PRM - 01, TA- 01, UIM - 01 and VF Plus - 01).

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**The City Manager then drew the attention of Council to Rule 15 (4) of the Rules of Order By-Law, 2014, as amended, which indicates as follows:**

*“If the Speaker is not present at a meeting, the Municipal Manager must preside over the process to elect an acting Speaker”.*

**In this regard, the City Manager outlined the process in respect of such election. He advised that a platform will be opened for calling of nominations, where a mover must nominate a Councillor; and the nomination to be seconded; accordingly, and a Councillor being nominated to accept the nomination. That in the event there is more than one (01) nomination, the election process will be undertaken through show of hands. Thereafter, a Councillor who received majority of the votes would preside over this meeting as the Acting Speaker.**

**This was accordingly, NOTED.**

*Subsequently, Councillor MM Hlengwa of APF representing a block of minority parties, requested fifteen (15) minutes for caucus.*

**The City Manager then requested a legal opinion regarding the above request, to ascertain whether it was practical to allow the caucus, given that this meeting has not officially commenced. Thereafter, the Deputy Head: Litigation confirmed that there was no specific rule which precludes granting of caucus at this stage.**

*Accordingly, with the time being 10h29, the City Manager granted 10 (ten) minutes for caucus and the meeting thereafter resumed at 10h46.*

Reporting back from Caucus, the APF speaking on behalf of a block of smaller parties requested the City Manager to allow the block to nominate their preferred candidate for the position of the acting Speaker.

### **ELECTION OF THE ACTING SPEAKER**

The City Manager conducted the process to elect the acting Speaker and invited nominations for the appointment of a Councillor as the acting Speaker.

Councillor ON Mthembu-Zondi, seconded by Councillor MM Hlengwa, nominated Councillor BT Ntuli. Councillor Ntuli accepted the nomination.

Councillor ZM Mncwango, seconded by Councillor J Annipen, nominated Councillor MS Gwala. Councillor Gwala accepted the nomination.

Councillor I Syed, nominated Councillor VG Reddy who subsequently declined the nomination.

Accordingly, the following Councillors were the nominees for this position:

- (i) Councillor Braveman Thembubuhle Ntuli (African National Congress)
- (ii) Councillor Mzwethu Sandile Gwala (Inkatha Freedom Party)

With there being two (02) nominations, the election process was thereafter conducted through show of hands, as overseen by the City Manager. A number of 189 Councillors participated in the voting process. It should be noted that, once the election process had commenced, no person was allowed to enter or exit the Council meeting venue.

Subsequently, the election results were recorded as follows:

- |      |  |     |
|------|--|-----|
| (i)  | Councillor Braveman Thembubuhle Ntuli: | 117 |
| (ii) | Councillor Mzwethu Sandile Gwala :     | 72  |

By the majority votes, it was

### **RESOLVED:**

That, in terms of Rule 15 (4) of the Rules of Order By-Law, 2014, as amended, Councillor Braveman Thembubuhle Ntuli of the African National Congress, be, with a number of one hundred and seventeen (117) votes, elected the acting Speaker for this eThekweni Municipal Council meeting.

In this regard, Councillor BT Ntuli proceeded to the Podium as the acting Speaker to preside over this meeting.

#### **1. NOTICE CONVENING THE MEETING**

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

#### **2. OPENING**

The acting Speaker declared the meeting open at 10h57 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 on social media live streaming.

3. AFRICAN UNION AND NATIONAL ANTHEM

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

4. OPPORTUNITY FOR PRAYER/MEDITATION

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

5. OFFICIAL ANNOUNCEMENTS

5.1 The Speaker presented the following announcements for the attention of the Members of Council:

5.1.1 Councillors were kindly reminded to complete the Attendance Register.

5.1.2 Council was informed of the sad passing of the EFF PR Councillor Nothemba Msibi. Condolences were extended to her family and her political party.

5.1.3 Condolences were also extended to the family and the ANC for the passing of the ANC Stalwart, Mr Essop Pahad. He was the Minister in the Presidency of South Africa.

5.1.4 It was noted that once again, the City of eThekweni was hit by the storm on Tuesday, 04 July 2023. On behalf of Council, the acting Speaker extended condolences to families that lost their loved ones, also empathizing with families displaced by the storm. It being mentioned that the City is working on fixing damages suffered.

5.1.5 Gratitude was extended to the Private Sector and Non-Government Organisations for supporting the storm victims with social reliefs.

5.1.6 In closing, the acting Speaker appealed to all Councillors to respect the meeting and Party Whips to assist to maintain order. Also, emphasizing cooperation and respect towards Administration and Security personnel during voting process to avoid queries with numbers being raised.

6. SPEAKER'S REPORT

The item was deferred to the next meeting.

7. APPLICATIONS FOR LEAVE OF ABSENCE

**RESOLVED:**

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

**COUNCILLORS**

Councillor G Govender	:	2023-07-12 To 2023-07-24	Indisposed
Councillor NC Gumede	:	2023-07-19	Indisposed

Councillor F Ismail	:	Requested to leave at 13h00pm	
Councillor OB Mvubu	:	2023-07-13	Personal Commitments
Councillor ZP Myeni	:	2023-07-13	Indisposed
Councillor J Naidoo	:	2023-07-13	Indisposed
Councillor PC Ndlovu	:	2023-07-13	Indisposed
Councillor MS Nkosi	:	2023-07-13	Indisposed
Councillor T Nyawose	:	2023-07-19	Indisposed
Councillor AAK Paruk	:	2023-07-13	Personal Commitments
Councillor SM Windvogel	:	2023-07-13	Indisposed
Councillor T Xuma	:	Requested to leave at 13h00pm	

8. DECLARATION OF INTEREST

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

9. CONFIRMATION OF MINUTES: MEETINGS HELD ON 2023-05-31 (Ordinary); 2023-05-31 (Special); 2023-06-02 (Urgent); 2023-05-31 (In-Committee); and 2023-06-15 (In-Committee)

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

- (i) 2023-05-31 (Ordinary) were tabled, moved by Councillor Madlala and seconded by Councillor Ntshangase.
- (ii) 2023-05-31 (Special) were tabled, moved by Councillor Madlala and seconded by Councillor Ntshangase.
- (iii) 2023-06-02 (Urgent), moved by Councillor Madlala and seconded by Councillor Ntshangase.
- (iv) 2023-05-31 & 2023-06-15 (Both In-Committee), were adopted during an In-Committee session.

Thereafter, it was

**RESOLVED:**

That the minutes of the meetings of the eThekweni Municipal Council held on 2023-05-31 (Ordinary); 2023-05-31 (Special); 2023-06-02 (Urgent) and the minutes of the In-Committee meetings held on 2023-05-13 and 2023-06-15, as circulated and taken as read, be and they are hereby confirmed.

10. MATTERS ARISING

Arising from the minutes of the Urgent Council meeting held on 2023-06-02, Councillor Kubheka of ActionSA requested on the update regarding the visit by the MEC for Cooperative Governance and Traditional Affairs, (COGTA) to present the Provincial Cabinet decision on the proposed Section 154 intervention.

In response, the acting Chairperson pointed out that the eThekweni Municipal Speaker will apprise the Council once the MEC for COGTA has submitted any further update on the matter.

This was accordingly, NOTED.

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

11.1 Questions submitted by Councillor A Beesley : ..... (31/3/1/3):

Tourism in eThekweni is on the backfoot. One of the tourist attractions, in the past, has been the beach walk between Umhlanga and Umdloti. The section of beaches between Umhlanga and Umdloti and the walk therein has been closed for some time which is not helping with the tourism situation in eThekweni.

With this context, the following questions were posed:

1. **What is the reason for the closure of the section of beaches and the walk therein between Umhlanga and Umdloti?**
2. **How long is this closure expected to continue?**
3. **There are guards preventing people walking in this section:**
  - (a) **Who are the guards employed by?**
  - (b) **Who pays for the company employing these guards?**
  - (c) **What authority do these guards have to stop people walking in this section?**
4. **What law or by-law prohibits people walking in this section?**

Councillor S Mnyandu provided the following respective responses:

1. It was reported that beaches between uMhlanga and uMdloti are open to the members of the public except the beach area of 1km north and south of uMhlanga estuary, and the estuary itself (called the Exclusion Zone). That the area was initially closed as a result of the chemical spill from UPL which decimated the estuary. The Exclusion Zone is to minimize human traffic in the area to allow adequate opportunity for animal and plant life to recover and to facilitate monitoring of recovery.
2. Whilst it was anticipated that by the end of March 2023 the evaluation and rehabilitation of the estuary and beach health would be at a much more advanced stage than it is at present, the Specialists have advised that there is still some way to go in determining that the risks are fully removed and to complete the assessment of recovery. That for this reason, the Specialists have recommended that the Exclusion Zone remain in place until the end of July 2023 when results can be interpreted again regarding the improvements/trend of estuary health. A re-evaluation of the Exclusion Zone will consequently occur within a one-month period.
3.
  - (a) The guards are employed by UPL South Africa Pty (Ltd).
  - (b) They are paid by the UPL South Africa Pty (Ltd).
  - (c) It was mentioned that the guards were tasked amongst others to stop the public from trampling or interfering with ecosystems associated with the estuary which may set these back from recovery. The public is urged to cooperate with instructions from the guards. However, the guards have no authority to arrest or fine any member of the public.

4. It was reported that there is no applicable law or By-Law which prevents such, however, the status quo is in place on a precautionary basis. That the authorities have no intention to keep the Exclusion Zone longer than it should, but any re-opening must be informed by the science and recovery of the system.

11.2

Questions submitted by Councillor F Ismail: ..... (23/1/11/3/1):

There are specific areas in eThekweni Municipality that are affected with water shortages everyday. Wards 17, 71, 72, 63 and 65 are always affected with water outages.

1. **The Northdene Reservoir supplies all of the above Wards with water supply. Please can you advise when the reservoir have all pumps working properly?**
2. **Does the Northdene Reservoir have a spare pump available should the pump breakdown?**
3. **Why is the Hollyhock, Klaarwater and Chats 4 reservoir always running low?**
4. **What plans has the Municipality have in place should we have a crisis like before when the Northdene Reservoir pump broke down and there was no spares and no water for almost 2 weeks?**
5. **Recently we have do not get water tankers. The rate payers are frustrated. When water tankers are allocated, we only get one water tanker to services 105 roads in one Ward:**
  - (a) **The tanker is either late at night or too small. What is the way going forward with getting bigger tankers and be allocated earlier.**
  - (b) **Why are tankers not fitted with GPS, every time we have to give directions to the tanker drivers?**
  - (c) **What plans has the City have to make sure that each Ward get more than one tanker?**

Councillor AB Ndlovu provided the following respective responses:

1. It was reported that all three (03) pumps at Northdene 3 are operational.
2. It was reported that only one (01) pump runs at a time, two (02) are for redundancy. In this regard, confirmation was given that there are spare pumps.
3. It was noted that the Municipality had a 16-hour emergency electricity repair which meant the no water was pumped to both Shallcross and Chatsworth 4 reservoir, unfortunately this occurred immediately when the Unit ,had just undertaken repairs on the same pumping main a week before, hence the longer recovery period of affected reservoirs.

4. Standby pumps have been procured, in addition there is a 3-year maintenance contract in place to address future failures.
5.
  - (a) The Municipality have purchased additional 55 (fifty-five) Water Tankers which will assist in delivering more loads and there are plans to use Jojo or static tanks to boost the capacity on the ground. Water Tankers are an intermittent plan while the City is working on a long term to deliver water to households through taps.
  - (b) The Tankers will be fitted with the latest communication technology which have GPS but due to the City's landscape, direct communication between councillors or customers and a water tanker driver was encouraged.
  - (c) Water Tankers are distributed based on the demand and availability of vehicles or water trucks. If the demand is high and the supply becomes constrained because some Wards are bigger in terms of land size and household which requires more resources. The Municipality will continuously improve however, working around the clock during the time of crisis to ensure that communities are supplied with water while the fixing challenges.

11.3 Questions submitted by Councillor J Annipen: (22/7/1/1/3):

On the 9<sup>th</sup> and 23<sup>rd</sup> May respectively, I representing the IFP Caucus, requested the following information regarding debt owned by Woodglaze Trading as well as any and all violations of the National Building Codes and Municipal Building By-Law, from the City's Chief Financial Officer (CFO), Mr Sandile Mnguni.

By the time of sending this correspondence the CFO has not responded to the emails dated above.

In lieu of this withholding of information and in the interest of good governance and transparency, the following questions were posed:

1. **What is the total debt owned to the eThekweni Municipality by Woodglaze Trading?**
2. **What does this debt comprise, please tabulate in categories of rates, services, etc.?**
3. **In the last three financial years, what was the total contribution/payments made by Woodglaze Trading to the City's revenue?**
4. **Woodglaze Trading is a developer which has built thousands of communal flats and free-standing houses throughout Phoenix and other suburbs, please provide a full breakdown of all developments which have been sanctioned by the City?**
5. **Can the City confirm that all of the developments mentioned above comply with national building standards and the City's building by-laws?**



- 5.1 If not, why not?**
- 5.2 Please detail contraventions in itemized format of development and violation.**
- 6. Can the City confirm that all the developments mentioned in 4 above have valid and legitimate certificates of compliance in terms of national building requirements and the City's building by-laws?**
- 6.1 If not, why not?**
- 6.2 Please detail which developments are without compliance certification and if these developments have already been occupied.**
- 7. Can the City confirm all developments completed by the mentioned developer, which have already been occupied by residents, have in fact been issued with certificates of occupation?**
- 7.1 Please provide a detailed breakdown of all developments completed by this developer which have been issued with Certificates of Occupation.**

Councillor SK Mzimela provided the following respective responses:

1. It was reported that the total debt owed is R83,518,592.32 (Eighty-Three Million, Five Hundred and Eighteen Thousand Five Hundred and Ninety-Two Rands and Thirty-Two Cents).
2.

a)	Solid Waste	R 1,100,826.52
b)	Electricity	R 2,570,279.54
c)	Rates	R50,666,046.03
d)	Water	R 29,181,441.23
TOTAL:		R 83,518,592.32
3. The total payment made over the past three years (03) is R58,950,546.45 (Fifty-Eight Million, Nine Hundred and Fifty Thousand Five Hundred and Forty-Six Rands and Forty-Five Cents).
4. It was mentioned that Woodglaze Trading was appointed by eThekweni Municipality to develop infill housing across the various suburbs within the district of Phoenix. The appointment allowed for the developer to build various housing typologies in various forms ownership (rental, sectional title and full title). The developments were intended to service the gap housing market. The other areas covered by this development include:
  - (i) Phoenix
  - (ii) Newlands
  - (iii) Chatsworth
  - (iv) Westville Triangle

That the project date back to early 2000, thus it would be impossible to provide a full breakdown within a short space of time. Also, that the Human Settlements Unit will retrieve information and provide update to the author in a 2-month time from the date of this Council meeting.

5.

- 5.1 The developer is expected to comply with all National Building Regulations. It was noted that the Municipality has acknowledged that some developments have not met the minimum requirements of the National Building Regulations. That in the case of such developments, interventions were made to ensure that Woodglaze observed compliance. This has been done through enforcement measures such as contraventions notices, fines etc. Furthermore, the Human Settlements Unit has petitioned Council to adopt a resolution which sought to ensure that the affected developments comply with the National Building Regulations and that beneficiaries receive the form of title due to them.

The developer has various cases of non-compliance that have occurred since the inception of the project. There are various reasons for such cases of which the developer will have to account for.

- 5.2 The contraventions are but not limited to the non-compliance in terms of SANS Part XA.

6.

- 6.1 The developments that don't comply with National Building Regulations will not have compliance certificates in accordance to the guidelines of the National Building Regulations.

- 6.2. The list of sites affected was voluminous and it was circulated to the author.

(The list is from the 732- council resolution and the 120-council resolution pertaining to the exempted sites).

7. It was advised that the records being requested are extensive as they stretch as far back to the early 2000's when the developer was appointed. To fulfil the request, the Human Settlements Unit will require additional time to collate the requested information.

11.4

Questions submitted by Councillor BD Naidoo: ..... (33/2):

It been said that the benefit of sports is not all about winning games. Building healthier, happier, safer and strong communities that get chance to participate in sports also develop strong social bonds. One of the essential requirements is proper sporting facilities in order to achieve this goal. Against the backdrop of an approved Council project for the development of three new tennis courts for the Community of Widenham, Umkomaas some five years ago, to date had not been fulfilled. Thus, the following questions were posed:

- 1. What was the original allocation of funding towards this project and how much had been spent to date?**

2. **Who were the original contractors and when did the work on the project come to an abrupt stoppage?**
3. **Due to the non-completion of the construction, was there a breach of contract and any monies owed to either party. If so how much was it?**
4. **Had the contract for the original contractor been officially terminated. If not why?**
5. **Since establishing the failure of the original contractors inability of completing the contract – have the department responsible called for a new tender to complete the remaining works. If not, why?**
6. **What are the outstanding works that still need to be completed and what plans does the department have to complete the project?**
7. **What are the facilities and amenities that will be incorporated on this complex and will there be security lights installed all around?**
8. **Will there be additional funding required for the completion of the project and what will be the estimated amount?**
9. **Further to question 6 above, If it's the intention of the relevant department to complete the project when will the likeable commencement date for the project to be reconstructed and the estimated time of completion.**

Councillor BW Phewa provided the following respective responses:

1. The original allocated budget towards the project was R 4,500,000.00 (Four Million Five Hundred Thousand Rand). An amount of R 3,251,714.52 was spent to date.
2. The contractor was Ubambisane Construction and Services. Work came to a halt in March 2021 when the contractor abandoned the site.
3. Yes, the Contractor has breached the contract by failing to complete the works. Money will be due to the eThekweni Municipality on finalization of the Contract Termination Account process which can only be determined upon completion of the remaining works by a newly appointed Contractor.
4. Yes, the contract with the contractor was terminated due to poor performance.
5. It was advised that there is no new tender in place. Project to be rescope and repackaged through operational budget during the 2023/24 financial year.
6. There are several outstanding items to be completed to the following areas
  - o Two (02) remaining tennis and combi-court.
  - o Parking area
  - o Footpaths
  - o Storm Water.

The work that needs to be done include works that the original contractor did not complete in addition, to the work that the contractor undertook, however there is some deteriorated of the work that was done due to exposure to the elements. The plan is for the project to be rescoped and repackaged.

7. The original project scope included flood lights, grandstand, outdoor gym in addition to the tennis and combi-courts as well as driveway and parking area.
8. Funding will be required for the completion of the project, the estimated budget required for the completion as at August 2021 was R 3,640,000.00.  
New estimate to be determined after the rescoping and repackaging of the project before the end of 2023/24 financial year.
9. Due to the current budget constraints, the project may be considered for implementation in the 2025/2026 financial year. Project rescoping and repackaging to be undertaken before the end of 2023/2024 financial year under the operational budget to ensure accurate informed budget requirements.

12. REPORTS:

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

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

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**FIRST REPORT OF THE EXECUTIVE COMMITTEE**

(Meeting held 2023-06-27)

- PRESENT :** Executive Committee Members TM Kaunda (Mayor and Chairperson), ZP Myeni (Deputy Mayor), A Beetge, Y Govender, BT Ntuli and ZR Sokhabase.
- ABSENT :** Executive Committee Members NI Madlala (Leave - Municipal Business), TM Mthethwa (Leave - Indisposed), OB Mvubu (Leave - Indisposed) and MS Nkosi (Leave - Personal Commitments).
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1. REPORT OF THE SECURITY AND EMERGENCY SERVICES COMMITTEE:  
MEETING HELD: 2023-06-14.

(Page R1)

- 1.1 Request to Rescind Council Decision in Respect of the Metro Police Unit Summons Services Tender (28/2/4/3 & 9/1/1):  
(Page L80 : Security and Emergency Services Committee - Agenda 2023-06-14)

Authority is sought to rescind the Council decision of 28 June 2018 following the advice given by the Legal & Compliance Unit with regard to what they regarded as the inappropriate manner in which the Metro Police Unit handles the summon services. As part of its core functions, the Metro Police Unit oversees contravention in relation to traffic and By-laws and subsequently issue summons where offenders have failed to pay penalties imposed for contraventions made. The Metro Police Unit is governed by the Criminal Procedure Act 51 of 1977 to manage processes pertaining to offenders as a result of violating traffic measures and By-Laws.

As a way of background, the summons services have been handled as follows within the Metro Police Unit:

- a) The tender was in place in 2003 renewable annually based on the performance of the service provider.
- b) Subsequently, the Legal & Compliance Unit advised that the Metro Police Unit needs to follow a proper process to put a new contract in place.
- c) In compliance with the recommendations by the Legal & Compliance Unit, the Metro Police Unit initiated a tender process in 2016, and a number of four (04) companies tendered in response to the tender advert. However, they were eventually not considered due to failure to meet essential requirements.
- d) The Metro Police Unit in April 2018 re-started the tender process and eight (08) companies responded. However, once again, they all failed at the tender evaluation stage due to lack of experience.
- e) Given the unsuccessful consecutive attempts to put a tender in place, an alternative approach was adopted that of appointing individuals from across the eThekweni Regions to serve as independent contractors and be paid R50.00 (Fifty Rand) per summon issued. This approach was then adopted by Council on 28 June 2018.
- f) Once again, the Legal & Compliance Unit advised that the process of engaging independent people from the Ward level is inappropriate as these people could claim to be Municipal employees and the potential to put the Municipality into disrepute in the event they engage into activities not assigned by the Municipality.

In view of the legal opinion, the Metro Police Unit will engage with the Supply Chain Management Unit to review the specification in preparation to start a new tender process. Given the unsuccessful attempts to put a tender in place, the specification has been changed, as per the advice of the Contract Manager. As such, experience has been cancelled and will therefore no longer form part of the tender specification. The essential requirements will also be revisited as the intention is to attract more service providers that will meet the specifications requirements.

Given the undertaking to put a new tender in place, a need exists to rescind a Council decision where approval was given to engage individuals across the eThekweni Region to undertake the summons services for the Metro Police Unit.

During deliberations at the Executive Committee level, it was reiterated that a need exists for the Municipality to start a new tender process and engage a service provider to support the Metro Police Unit to issue summons to traffic offenders. However, the DA submitted that the Protection of Personal Information Act (POPI), sets out the minimum standards regarding accessing and processing of any personal information belonging to another. A concern being raised about the details of vehicle owners and their residential addresses, having to be administered by independent people, mention being made that this will pose a risk in terms of contravening the POPI Act.

A proposal being made that Metro Police Unit be capacitated; through the establishment of a dedicated team of Peace Officers to handle the summon services function; including increased number of vehicles to enable swift operations by the Officers when executing their duties. Also, that various platforms to issue summons be explored, such as email facility as part of cost containment measures. Indication being given that this will also lead to a reduction of traffic fines amount being written-off, as the Municipal dedicated team will be able to follow up on the summons issued to achieve accountability.

In view of what was regarded as the risk involved in engaging external service provider, the DA abstained on the matter at this stage. With the other Political Parties being in support,

#### COMMITTEE RECOMMENDS:

- 1.1.1 That in order to put a tender in place, in compliance with applicable Supply Chain Management Regulations, to engage a service provider to support the Metro Police Unit to issue summons to traffic offenders, the following resolutions relative to the Servicing of Summons in respect of Traffic and By-Law Charges Issued by Metro Police, as adopted by Council on 28 June 2018, be rescinded:

*“3.1.1 That the Head: Metro Police be authorised to engage Summon Servers who will operate as independent contractors to personally serve summons relating to traffic offences across the eThekweni Region, in line with By-law charges in terms of Section 54 of the Criminal Procedure Act No. 51 of 1977, as amended, it being noted that individuals to operate as Summon Servers will be identified from the respective Wards to circumvent travel costs.*

*3.1.2 That the rate of pay shall be R50. 00 (Fifty Rand) per personally served summons to the person/offender and a subsequent increase to be reviewed annually in the month of July.*

*Vote 20081.11200.12120.0000.MRC01.0010; R1 974 400,00”*

- 1.1.2 That, subject to the approval of .1 above, the Head: Metro Police commences with an internal process to capacitate the Unit to undertake summons services within the applicable Supply Chain Management Regulations, to ensure summons relating to traffic and By-law enforcement across the eThekweni Region are managed effectively.

#### **Financial Implications:**

The approved budget for the financial year 2023/2024 is R1 000 000.00 (One Million Rand) , under Vote number: 20051.11200.12120.0000.MRC01.0010.

### **MOTION TO AMEND**

In terms of Rule 20(4) of the Rules of Order Bylaw 2014, as amended, Councillor A Beetge, seconded by Councillor S Sewshanker, moved as a procedural motion to amend the above recommendations by the addition of 1.1.2, as follows:

“1.1.2 That, subject to the approval of .1 above, the Head: Metro Police commences with an internal process to capacitate the Unit to undertake summons services within the applicable Supply Chain Management Regulations, to ensure summons relating to traffic and By-law enforcement across the eThekweni Region are managed effectively.”

### **CARRIED**

The amendment was unanimously carried.

Discussion thereafter reverted to the substantive matter, where the DA appreciated support by the Council in terms of approving the recommendations with amendments. They emphasised that the recommended approach would lead to reduction in traffic fines amount being written-off, as dedicated Team from the Municipality will be able to follow up on the summons issued to achieve accountability. Also, citing that the Protection of Personal Information Act, sets out standards for accessing and processing of any personal information belonging to another. Therefore, Peace Officers will be able to fulfil this role, as they perform their duties under oath.

The ActionSA supported the matter even though expressing reservations for the inability by the Legal Team to identify shortcomings at the time the decision being rescinded was adopted. The AIC also supported the matter, but indicating that perhaps legal opinion should have been sought from an independent law firm this time and prior to commencing with the tender process. Thereafter, the ANC considered the approach being taken justifiable and that in-sourcing the service will provide effective coordination and management, also better prospects to adequately collect fines due to the Municipality.

In this regard, the above recommendations, as amended, were accordingly, **ADOPTED.**

## 2. REPORT OF THE FINANCE COMMITTEE: MEETING HELD 2023-06-21

(Page R2)

### 2.1 Budget Statement Report for the Month Ended 31 May 2023 (7/1/4): (Page 14 : Finance Committee - Agenda 2023-06-21)

In giving an overview, the Head: Expenditure took the meeting through the salient features of the report relative to the actual operating revenue of 101% of the year-to-date budget, with a variance of -1%, and revenue generated to date is 94.7%. The actual operating expenditure reported as a percentage of year-to-date budget figure is 98% with a variance of -2% and Operating Expenditure spent to date is 87.7%. The reported capital expenditure is 98% of the budget with a variance of -2% and the capital year to date spent is 56.2%. A cash collection rate of 94.45% as at the end of May 2023 was reported, and lower when compared to the same period in the previous year (94%).

During discussions, it was noted that the Budget Statement Report reflects that the Municipality has been placed under Section 154 Administration by the Provincial Treasury, reason given being lack of sense of urgency on service delivery. The Committee queried this statement as according to its understanding the issue of Section 154 has not formally served before Council.

Continuing with the discussion, most of the opposition cited that the cash collection rate of below 100% reported on monthly basis was viewed as failure by the Municipality to implement vigorous revenue collection strategies. The amount lost due to under-collection also being quired. Reservations were expressed regarding the water distribution losses which were reported to be 57, 38 %; as well as escalating debtors' book, a view being submitted that there was no accountability or political will to resolve the matters. A submission also being made that water challenges were attributed to the failure of the Municipal water infrastructure; reservoirs being cited as no longer having a capacity to handle the bulk water supplied by uMngeni Water.

On the other hand, the fifty-one (51) days cash on hand, excluding unspent grants, was applauded, it being emphasised that the Municipality should continue to build up on its cash reserves, but also ensuring that creditors are paid within the prescribed thirty (30) days period. Also, that the Municipality should ensure that resources are adequately available for the Municipality to effectively carry out its service delivery mandate, including a need to capacitate the Supply Chain Management Unit.

Speaking on the tariffs, some members were of the view that tariffs are still very high, citing the slow economic growth following the adverse effects of the triple disasters. That a need exists to conduct awareness campaigns to inform the citizens about all Social Relief Packages provided by the Municipality, including assistance given to the vulnerable groups in terms of Indigent Policy. That engagements also be resuscitated between the Provincial Departments of Education and Public Works to consider amongst other things, repairs to water burst in Section 21 Schools and payments for Municipal services.

The Chairperson, speaking on the comments made, clarified that with regard to Section 154 of the Constitution of the Republic of South Africa (RSA), the National and the Provincial Government spheres support the Local Government sphere where applicable. However, with regard to the Section 154 process which was to be started by the Province, the Chairperson advised that a formal letter has since been submitted to the Provincial Government querying the draft Terms of Reference (TORs) received by the Municipality in this regard. This was based on the fact that the content of the TORs was viewed by the Municipality to be largely referring to Section 139 of the Constitution.

On the issue of service delivery, the Chairperson advised that efforts were continuously being made to turnaround the status of the City's economy, also citing that the performance agreements for Senior Managers will be reviewed to include efficient and improved turnaround timeframes of supply chain management processes. Clarity was also given that the reduced electricity revenue was due to customers opting for alternate energy sources, reference made to solar, generators etc and that water losses were also due to the unquantified and unmeasured water supplied through standpipes and ablution facilities. Assurance given that the backlog on installation of both electricity and water meters will be addressed. Also, that revenue collection will



be intensified, including disconnection of services in crowded buildings to force property owners to come forward and make necessary payment arrangements.

Following further in-depth elaboration on the report, during which clarity was provided to various issues raised,

**COMMITTEE RECOMMENDS:**

- 2.1.1 That the Budget Statement report for the month ended 2023-05-31 and the supporting documents, submitted by the City Manager as per his report dated 2023-06-14, in compliance with Section 71 of the Municipal Finance Management Act 56 of 2003 and in terms of Government Notice 32141 dated 17 April 2009, relating to the “Local Government: Municipal Finance Management Act No. 56 of 2003, the Municipal Budget and Reporting Regulations”, be noted.
- 2.1.2 That in compliance with Section 32(2) of the Local Government: Municipal Finance Management Act No. 56 of 2003, Council notes that Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFWE) have been incurred in the month of May 2023 reported by the line departments as reflected in section 10 of the Budget Statement Report.
- 2.1.3 That Council refers that the UIFWE referred to in .2 above to the Municipal Public Accounts Committee (MPAC) for investigation into the recovery or write-off of the said expenditure in terms of Section 32(2)(b) of the Local Government: Municipal Finance Management Act No. 56 of 2003 and request MPAC to report back to Council on the outcome of its investigations.

**Commenting on the budget statement report, the ActionSA submitted that there was still uncertainty on the proposed Section 54 intervention by the Department of Cooperative Governance and Traditional Affairs.**

**Whereafter, the EFF mentioned that Section 54 is a Constitutional requirement, therefore, National Treasury has an obligation to support Municipalities where applicable and to effectively play oversight role over the operations of the Municipalities. However, they reiterated that in terms of the Section 54 process which the Province intended to formalize, the eThekweni Municipality queried the draft Terms of Reference (TORs) since the content thereof was viewed by the Municipality to be largely referring to Section 139 of the Constitution. Therefore, a clear distinction should be made in this regard.**

**Also commenting on the matter, the DA submitted views that the Section 139 intervention is necessary to salvage the Municipal financial situation. Regarding the monthly budget statement reports, the DA reserved comments, advising of the opportunity awaited to scrutinize and comment on the final comprehensive financial report for the 2022/2023 financial year.**

**Also commenting on matter, the IFP cited that the Section 54 intervention by the Provincial Government, with reasons thereof being specified, is an indication that the Municipality is facing challenges. They also mentioned that the Council has not been privy to the contents of the TORs received from the Provincial Government, a request being made that transparency should prevail to achieve certainty about the ability of the Municipality to continue delivering services required by the local communities.**

Commenting on the issue of the Section 154 intervention, the ANC reminded the Council that a proposal in this regard has not yet served officially at the Council. That the TORs have been dealt with at the Office Bearers' level with the Provincial Government having being requested to provide further clarity on aspects considered not clear, including differentiation between Section 154 and Section 139 applications. That further communication in this regard is still awaited

Speaking on the financial performance, the ANC confirmed that the eThekweni Municipality is occupying top position when it comes to grant spending compared to its counterparts. Also, citing noticeable improvements on revenue collection, which sat at 94% to date. In line with the Council-approved strategy, the Council was informed of progress made to reduce unauthorised, irregular, wasteful, and fruitless expenditure, which was reported to be R38 Million to date. Regarding water and electricity issues, it was reported that the migration of the meter reading function is at an advanced stage, to enable the Municipality to effect improvements on the accuracy of Municipal Customer Bill Statements.

As some members were not in support of the recommendations, the matter was put to the vote. With 190 Councillors present, 118 Councillors (ANC - 84, DA - 50; EFF - 20; Action SA -03, ABC - 02; ACC - 02, ACDP - 02; DLC - 01; ADEC - 01; APF - 00; AIC- 01; ATM - 01; ALJAMAH - 00; JEP -01; KZNI - 01, MF - 01, MOSA- 01, NFP - 00; PRM - 01; TA- 01, UIM - 01 and VF Plus - 01) voted in favour of the recommendations and 15 Councillors (IFP- 14 and PFP - 01) voted against the matter. There were no abstentions recorded.

Thereafter, the above recommendations **2.1.1 & 2.1.2** were; **NOTED**, and recommendation **2.1.3** being; **ADOPTED, by a majority vote.**

## 2.2

Public Tender Awards of eThekweni Municipality for the Month of April 2023 (9/1/3):  
(Page 187: Finance Committee - Agenda 2023-06-21)

The Committee noted that the amount of R682 128 749.81 (Six Hundred and Eighty-Two Million One Hundred and Twenty-Eight Thousand Seven Hundred and Forty-Nine Rand Eighty-One Cent) is the total value of tenders issued during the month of April 2023.

In noting the report, the Committee expressed concern on what they viewed as insufficient number of tenders being awarded to youth and vulnerable groups. Mention being made that the percent of Section 36 tender awards is still slightly high; emphasis being made that the aforesaid Section is to be utilized only for emergency purposes. Also, that stringent measures be put in place, to improve expenditure patterns and expediting the process of finalising tender processes for tender awards to be made within a reasonable timeframe.

On the query raised regarding the functionality of the Municipal automated tender Supplier Self-Service (SSS) system, confirmation was given that this system is still being developed further to handle procurement valued above R200 000.00 (Two Hundred Thousand Rand), which is the current threshold in terms of this system. It being anticipated that the system will be fully functional by the end of the current financial year.

With the Committee noting the tender awards report subject to comments made, accordingly,

COMMITTEE RECOMMENDS:

- 2.2.1 That the public tender awards by the City for the month of April 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 2023-05-17, 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 willful and negligent violation of Supply Chain Management Policies and 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.

**Speaking on the above matter, the DA expressed reservation on what they viewed as excessive use of Section 36 to procure goods and services. Reference was made to the Section 36 tender awards specifically for the Cleansing and Solid Waste Unit which apparently has been awarded to the same Company for three (03) years. Mention being made that this was unjustifiable and might also lead to the Municipality being held in ransom by people demanding tenders. In this regard, they stated that the DA will continue to work tirelessly to fight against dishonest behaviour, where applicable. Emphasis being made that Section 36 is to be utilized only for emergency purposes.**

**Also commenting on the report, the IFP mentioned that Councillors still needed to be inducted on the functionality of the Municipal automated tender Supplier Self-Service (SSS) system, to enable them to effectively play their oversight role over the total value of tenders issued each month.**

**Thereafter, the ANC cautioned that the use of Section 36 is not unlawful, given that when there is no contract in place to respond to emergencies and challenges, the Municipality is left with no option other than to provide the required service. However, they also emphasised that the Municipal leadership would continue to monitor the usage of Section 36 within applicable legislative framework.**

**Accordingly, the above recommendations of the Executive Committee, were, NOTED.**

- 2.3 Public Tender Awards of eThekweni Municipality for the Month of May 2023 (9/1/3):  
(Page 360: Finance Committee - Agenda 2023-06-21)

The Committee noted that the amount of R183 688 060.87 (One Hundred and Eighty-Three Million Six Hundred and Eighty-Eight Thousand and Sixty Rand Eighty-Seven Cent) is the total value of tenders issued during the month of May 2023.

It being noted that the comments made in the preceding paragraph are also applicable in this item, accordingly,

COMMITTEE RECOMMENDS:

- 2.3.1 That the public tender awards by the City for the month of May 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 2023-06-12, be noted.
- 2.3.2 That it be noted that where information is available for Wards and registration numbers, it is included in the report, as information used to compile the report is taken from submissions made by the Units.
- 2.3.3 That the Finance Committee calls for additional information on individual awards, where it deems appropriate and necessary to play its oversight role.
- 2.3.4 That the City Manager reserves the right to investigate the awards with a view to taking disciplinary, criminal and recovery actions where willful and negligent violation of Supply Chain Management Policies and Municipal Finance Management Act provisions are observed.
- 2.3.5 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.

**Speaking on the matter, the DA indicated that the Council has to consider other groups of people who want to trade and do business with the Municipality, therefore, this was to be achievable by reducing Section 36 tender awards.**

**Thereafter, the Chairperson of the Finance Committee indicated that the usage of Section 36 has been reduced by 25% and that the youth sector must also benefit from the tenders. Information being given that the Youth in Business Summit has been convened by the Municipality to capacitate the youth sector on various matters, including methods to access tender opportunities etc. In this regard, it was emphasised that Council has a pivotal role in terms of development and approval of policies that cater for such.**

**Accordingly, the above recommendations of the Executive Committee were, NOTED.**

- 2.4 Investments Report for the Month Ended 31 May 2023 (7/11/4):  
(Page 525: Finance Committee - Agenda 2023-06-21)

The Committee noted the Municipal funds invested in different financial institutions and recorded to be the total amount of R8 993 000 000.00 (Eight Billion Nine Hundred and Ninety-Three Million Rand), at an average rate of return on investments of 8.69%. Also, that the Municipality has an overdraft facility of R682 000 000.00 (Six Hundred and Eighty Two Million Rand) and the unutilized Capital and Operational Grants as at the end of May 2023 is reported to be R3 109 000 000.00 (Three Billion One Hundred and Nine Million Rand). Further noting the forty-seven (47) days cash on hand, excluding grants.

In noting the report in the above regard,

COMMITTEE RECOMMENDS:

That the report on investments for eThekweni Municipality as at 2023-05-31, which records the total funds invested in financial institutions as R8 993 000 000.00 (Eight Billion Nine Hundred and Ninety-Three Million Rand), at an average rate of return on investment of 8,69%, 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.

**NOTED.**

2.5 Unauthorised, Irregular, Fruitless and Wasteful Expenditure Incurred for the Quarter Ended 31 March 2023 (7/7/R):

(Page 531: Finance Committee - Agenda 2023-06-21)

With assurance being given that interventions are being made to reduce Unauthorised, Irregular, Fruitless, and Wasteful Expenditure;

COMMITTEE RECOMMENDS:

2.5.1 That Council notes the Unauthorised, Irregular, Fruitless and Wasteful Expenditure reported for the quarter ended 31 March 2023, amounting to R16 179 111.40 (Sixteen Million One Hundred and Seventy-Nine Thousand One Hundred and Eleven Rand Forty Cents), reported by various Units, as detailed in Annexure “A” in the report of the City Manager dated 2023-05-16.

2.5.2 That, depending on the outcome of the process detailed in terms of Section 32 of the Local Government: Municipal Finance Management Act (LG: MFMA) No. 56 of 2003, further action may arise including disciplinary action, recovery of monies and criminal charges being instituted where applicable.

2.5.3 That a report be prepared and submitted to the MEC for Co-operative Governance and Traditional Affairs, National Treasury and the Office of the Auditor-General, in terms of Section 32 and Section 170 of the LG: MFMA.

**Commenting on the matter, the DA submitted that the amounts continuously being written-off were high; it being stated that the residence were not receiving value for money. They mentioned that the Auditor-General has expressed concerns on various issues, reference being made to illegal connections, ageing infrastructure, and lack of consequence management. The DA was of the view that the Municipality had not taken actions or given assurance in terms of interventions being made to resolve these issues; and that the Municipality was also not being proactive to prevent the situation from exacerbating.**

**Mention being made that tangible examples to demonstrate implementation of consequence management will stimulate stakeholder confidence on the Municipal operations. Also, citing that failure to deal with root causes would result in continuously increasing the UIFWE amount. They further indicated that implementation of concerted efforts was still required for the Municipality to recover funds, including filling of permanent senior management positions.**

**Also speaking on the report, the IFP mentioned that the UIFWE amount of R16 179 111.40 (Sixteen Million One Hundred and Seventy-Nine Thousand One Hundred and Eleven Rand Forty Cents) incurred during the quarter ended 31 March 2023 is a direct indication of the lack of accountability.**

**That there is apparent inadequacy on the Municipal internal control systems, with no assurance that improvements can be anticipated. Therefore, emphasis was put that appropriate plans be put in place and stricter measures implemented to enforce adherence thereto. On this basis, the IFP abstained on the matter.**

**Thereafter, the ANC noted the report and emphasised that investigations on the UIFWE are being conducted by the Municipal Public Accounts Committee, with mitigating measures being agreed to with a view to preventing recurrence of similar situation in future. That depending on the outcome of the process detailed in terms of Section 32 of the Local Government: Municipal Finance Management Act (LG: MFMA) No. 56 of 2003, further action may arise, including disciplinary action, recovery of monies and criminal charges being instituted, where applicable. Also, reiterating that reports will be submitted to the MEC for Co-operative Governance and Traditional Affairs, National Treasury and the Office of the Auditor-General, in terms of this Sections 32 and 170 of the LG: MFMA.**

**Accordingly, the reservations expressed by some of the Members were noted, but the above recommendations of the Executive Committee were also, **NOTED.****

3. **DIRECT EXCO REPORTS**

3.1 **REQUEST FOR AUTHORITY TO REPRIORITISE THE 2022/2023 CITY ADMINISTRATION UNIT CAPITAL BUDGET TO PURCHASE ADDITIONAL COMPUTER EQUIPMENT (8/1/6/1)**

(Page 1)

The City Administration Unit plays a critical role within the Municipality with major local government operations being driven within this Unit. This then requires effective provision of Councillor support as well as effectively managing the Municipal Council decision-making process. Therefore, the supply and availability of tools of trade become necessary to ensure provision of smooth service as the Unit fulfils its core functions.

The Unit is currently struggling as there are challenges with computer equipment. Meanwhile, there are insufficient funds to procure such for the Unit to deliver efficiently and achieve good governance. Accordingly, authority is sought for the Unit to reprioritize its 2022-23 capital budget to use surplus funding to beef up the computer equipment vote.

In this regard, the Unit has identified two (02) projects with surplus funds, i.e., votes for storm damages repairs to the City Hall Building and for the procurement of the Electronic Records Management System (ERMS). This is due to delays encountered to award tender to engage service provider to undertake City Hall upgrades. With regard to the ERMS, a need exists to conduct further analysis and stakeholder engagement in this regard. These projects will still proceed once the processes associated therewith have been completed.

During deliberations, the Committee established the impact of the 2022 April floods in City Hall. In response, it was reported that the floods predominantly affected the City Hall building roof and in view of the damages roof leaks are experienced during heavy rains. Thereafter, consideration was given to the significance of computer

equipment, and reference having been made to a requirement to keep up with the 4<sup>th</sup> industrial revolution. Therefore, provision of advanced technological equipment was regarded necessary.

The DA abstained on this matter at this stage and with the other Political Parties being in support thereof,

**COMMITTEE RECOMMENDS:**

- 3.1.1 That, given the delays in finalising processes to lead to the commencement of the projects relating to the City Hall Building upgrades, and the Electronic Management System within the City Administration Unit, and thus the surplus funds, while the Unit is in critical need of computer equipment to effectively fulfil its core functions which primarily impact effective provision of Councillor support and effectively managing the Council decision-making process, authority be granted for the Head: City Administration to facilitate the process of reprioritizing the Unit's 2022-2023 Capital Budget for the purpose of purchasing computer equipment.
- 3.1.2 That Council notes the process referred to in .1 above will result in securing an estimated amount of R1 000 000.00 (One Million Rand) and with the Unit proposing to utilize such to purchase computer equipment to aid effective service delivery within the Unit.
- 3.1.3 That in view of .1 and .2 above, authority be granted for the Head: City Administration to utilize the amount of R1 000 000.00 identified through budget reprioritization to procure additional computer equipment to enable the Unit to adequately render services and effectively support the Municipal Council operations.

**Financial Implications:**

FUNDS REQUESTED			FUNDED FROM		
Project Description	Vote No.	Estimated Amount	Project Description	Vote No.	Amount
		R			R
Computer Equipment Vote	32155.44630.30015. 0000.PC8300.0010	1 000 000.00	Storm Damage Repair Project	32155.45506.22.30015. 0000.G1053.R001	500 000.00
			ERMS Project	32156.42040.30015. 0000.G1004.0010	500 000.00
Savings Required					1 000 000.00
<b>Total Estimated Cost</b>		<b>1 000 000.00</b>		<b>Total Estimated Cost</b>	<b>1 000 000.00</b>

Speaking on the matter, the ActionSA expressed concern that the report lacked specifics in terms of the magnitude of the storm damages following the 2022 April floods in City Hall and contingency plan thereof in the event of unforeseen storm disaster. Meanwhile, the DLC submitted that the approved annual budget and projects for implementation are not being taken seriously by various Municipal Units. An indication being given that the delay in awarding tenders is unacceptable and warrants investigations as the DLC view viewed this conduct as the display of incompetence by certain Municipal officials and disregard of elected Political Office Bearers accommodated in City Hall and expected to conduct their daily operations in the building in need of repairs.

Meanwhile, the IFP dissented on the matter, citing that the success of any organization is largely dependent on its ability to plan and prioritize appropriately. They expressed concern about the delay in renovating the City Hall building, reference being made to long outstanding damages in the Main Auditorium. That the Council has in the past three (03) years spent huge amounts hiring meeting venues. Reference was also made to computers recently written off and which could not be located, thus hoping that new computers would be utilised effectively to execute Municipal duties.

Subsequently, the EFF notwithstanding the need for provision of advanced technological equipment, expressed reservations that computers were being purchased every year, citing that proper assets registers must be kept to verify the number of laptops lost; recovered; and disposed of thereby determining additional laptops required and estimated expenditure to be incurred for this purpose and that such information be submitted to the relevant Support Committee.

Clarifying operational processes, the ANC advised that computers are not purchased in general, but were procured per Cluster for different purposes. In this instance, it was advised that the computers were required by Governance and International Relations Cluster for effective provision of Councillor support as well as effectively managing the Municipal Council decision-making process. Mention being made that when computers are taken for repairs; Councillors and Administrators are left without equipment to carry out required Municipal operations due to non-availability of a pool of computers. It being reiterated that the supply and availability of tools of trade become necessary to ensure provision of smooth service for the Unit to fulfil its core functions.

Further, that computers were also procured by the relevant Clusters for various Municipal Libraries and Human Resource Centres of Excellence for utilization by community members to keep up with the 4<sup>th</sup> industrial revolution and achieve paperless environment. The importance of renovating City Hall was acknowledged but that this could not proceed in the absence of finalizing the procurement process. As such, the Unit considered it worthy to redirect funds to cover other critical operational requirements in the form of laptops procurement during the 2022/2023 financial year.

Thereafter, a REFERENCE BACK, was submitted by the EFF as follows:

In terms of Rule 20(1)(c) of the Rules of Order Bylaw, Councillor T Miya of the EFF, seconded by Councillor L Shange, moved as a procedural motion that, “Request For Authority to Reprioritise the 2022/2023 City Administration Unit Capital Budget to Purchase Additional Computer Equipment (8/1/6/1)”; be referred back to the Committee to then resubmit the Report accompanied by the laptops insurance outcomes and the assets register to verify the number of laptops lost; recovered; and disposed-off thereby determining additional laptops required and estimated expenditure to be incurred for this purpose.”

Given the proposed reference back, legal opinion was sought to provide guidance on whether the allocated capital budget will not be forfeited if the report is not approved in this meeting but to be deliberated further at the Committee level.



In response, the Deputy Head: Litigation advised that the funds might be forfeited since Council is already operating in the new 2023/2024 financial year, but that the Chief Financial Officer was best placed to respond in view of this being a financial rather than a legal matter.

Engaging into further deliberations, diverse views were submitted wherein the DA and the ActionSA submitted that Council was already operating well within the new financial year, also maintaining that there was not much difference if the report was referred back to the Committee to then re-submit a report for consideration at the next Council meeting.

*(At this stage of the proceedings, time being 13h03, the ANC requested five (05) minutes for a caucus. The request was accordingly granted by the acting Speaker and the meeting further resumed at 13h17.)*

Reporting back from the Caucus, the ANC supported the reference back and mentioned that further clarification on the report will be provided at the Committee meeting.

### **CARRIED**

Accordingly, the above matter was unanimously; **REFERRED BACK TO THE EXECUTIVE COMMITTEE.** *to then resubmit the Report accompanied by the laptops insurance outcomes and the assets register to verify the number of laptops lost; recovered; and disposed off thereby determining additional laptops required and estimated expenditure to be incurred for this purpose.*

## 3.2 REQUEST TO EXTEND CONTRACTS UNDER THE EXPANDED PUBLIC WORKS PROGRAMME (4/3/5/1)

(Page 4)

Authority is sought to extend contracts entered into with the beneficiaries under the Expanded Public Works Programme (EPWP) during the 2022-23 financial year. This is to allow the City Manager to enter into and sign a new Memorandum of Agreement (MOA) with the Department of Public Works and Infrastructure (DPWI) in order to receive the incentive grant for the EPWP operations during the 2023-24 financial year.

EPWP is a poverty alleviation programme aimed at providing short-term income relief as well as facilitating training for previously disadvantaged individuals to enhance their chances of securing permanent employment. The eThekweni Municipality is categorised one of the biggest contributors to the National Government programmes on poverty and unemployment reduction. As such, the Municipality was given a target to create eighty-three thousand eight hundred and ninety-three (83 893) work opportunities during the 2019 – 2024 Administration. Currently, a number of four thousand two hundred and thirty-seven (4 237) beneficiaries are enrolled under the Incentive Grant (IG) funded programmes.

In eThekweni Municipality, the EPWP is divided into various IG funded projects namely, EPWP Administration, Safer Cities Volunteers, Urban Management Zone, ITRUMP, Durban Solid Waste City Wide Cleaning Programme, Community Based Water Agents, the Social Sector as well as the Cornubia Cleaning Services. These programmes have played a critical role in mitigating various community related challenges. The programmes are fully facilitated and managed by the respective Units.

The Municipality faces challenges of insufficient funds to sustain the EPWP operations. This is due to the beneficiaries engaged exceeding grant allocated by the DPWI. With other beneficiaries having been enrolled since 2014, expectations for permanent employment has been created. has been an expectation of permanent employment. Previously the Municipality obtained finding by the Auditor-General on issues relating to what was regarded as insufficient financial management systems, in particular, the expenditure controls in relation to the EPWP and the Presidential Employment Programme (PEP). Thus, the Municipality was considered in deviation of the requirements of Section 65(2)9a) of the Local Government: Municipal Finance Management Act No. 56 of 2003 in handling the EPWP and PEP expenditure.

Subsequent to the AG findings, a Task Team led by Human Capital was established to develop and implement exit strategy, hence, the following control measures have since been put in place:

- a) Verification of EPWP workers through a requirement to submit valid Identification Document (ID), with a proviso that failure to submit the ID will inform the removal from the payroll system.
- b) Beneficiaries were given opportunity to declare their status of employment.
- c) Respective Supervisors tasked to ensure that monthly stipend is paid upon the signing of appropriate timesheets and with the Mayoral Parlour to work with the Internal Control Unit to conduct regular checks to ensure this operational standard is adhered to by all Departments.
- d) EPWP Supervisors to convene quarterly meetings to reconcile status of EPWP beneficiaries drawing from continuous checks and monitoring process.

The control measures cited above are also applicable in the 2023-24 financial year to continue cleaning the EPWP within the Municipality.

Thereafter, during deliberations on this matter at the Executive Committee, the DA acknowledged the significance and intention of the EPWP. However, they expressed concern that the Municipality has delayed the implementation of control measures and the exit strategy to address issues of concern under this programme. That addressing historical challenges is critical to ensure recruitment is done on a rotational basis rather than continuous basis.

Speaking on the matter the ANC and the NFP highlighted that the EPWP beneficiaries have increased immensely over the years due to high unemployment rate. The Municipality was applauded for implementing control measures to ensure that all processes within the EPWP are in accordance with the objectives of the programme. Confirmation being given that the verification process undertaken has resulted in the reduction of five thousand eight hundred (5 800) beneficiaries, and this not being limited to deceased beneficiaries but also including irregularities identified.

The Committee was informed of cases pending investigation by the Municipal Public Accounts Committee and by the City Integrity and Investigations, with the outcome thereof to be submitted to the relevant structures. Emphasis being made that a need exists for the National Government to top up the incentive grant for the programme, on the basis that the Municipality has been able to utilize 100% of its allocation.

Thereafter, the DA (02) dissented on the matter. With the ANC (03) and NFP (01) being in support, by the majority vote,

**COMMITTEE RECOMMENDS:**

- 3.2.1 That Council approves the extension of contracts of the existing beneficiaries of the Expanded Public Works Programme (EPWP), to continue with their service under the new 2023/2024 financial year EPWP, to sustain stability, reduction of unemployment and poverty.
- 3.2.2 That authority be granted for the City Manager, on behalf of the eThekweni Municipality, to sign a Memorandum of Agreement with the Department of Public Works and Infrastructure to receive the Incentive Grant in the amount of R60 790 000.00 (Sixty Million Seven Hundred and Ninety Thousand Rand) for the EPWP operations during the 2023/2024 financial year.
- 3.2.3 That, in view of the eThekweni Municipality EPWP to attract an estimated expenditure in the amount of R277 509 587.00 (Two Hundred and Seventy Seven Million Five Hundred and Nine Thousand Five Hundred and Eighty Seven Rand) during the 2023/2024 financial year, authority be granted for the Deputy City Manager: Finance to identify and allocate the top up funding of R216 719 587.00 (Two Hundred and Sixteen Million Seven Hundred and Nineteen Thousand Five Hundred and Eighty-Seven Rand), from Council savings in order to sustain the EPWP programmes.

**Financial Implications:**

PROJECT NAME	EPWP BUDGET	EPWP ANNUAL	REQUIRED FROM
	Grant Funding	Forecast	Council Budget
	R	R	R
Cleaning Service Cornubia Projects	216 673.00	989 125.00	722 452.00
DSW City Wide Cleaning Programme	11 658 016.00	53 219 464.00	41 561 448.00
EPWP Community Water Agents	2 996 865.00	13 680 848.00	10 683 983.00
Safety Volunteer Project - Mayoral	39 139 690.00	178 674 767.00	139 535 078.00
Urban Management Zone (UMZ)	1 600 549.00	7 306 592.00	5 706 043.00
eThekweni Social Sector Support	3 985 121.00	18 192 291.00	14 207 170.00
EPWP Administration	1 193 085.00	5 446 499.00	4 253 413.00
<b>TOTAL</b>	<b>60 790 000.00</b>	<b>277 509 587.00</b>	<b>216 719 587.00</b>

**Commenting on the matter, the DA mentioned that EPWP is a Poverty Alleviation Programme aimed at providing short-term income relief. However, that with some beneficiaries having been part of the Programme from 2014 to date due to continuous contracts extension, therefore, the demand for permanent employment is obvious. The findings raised by the Auditor-General against the EPWP effectiveness were reiterated thus confirming shortcomings in managing the EPWP effectively, in particular, the human resources aspects of this Programme.**

**With the DA input being submitted by Councillor Beetge on the EPWP item, subsequently, a point of order was raised, in which Councillor Beetge was requested to withdraw the word “these people” which was viewed as inhumane reference to the EPWP beneficiaries and discrimination of the participants.**

**Ruling on the matter, the Acting Speaker directed Councillor Beetge to comply with the request. Meanwhile, Councillor Beetge then advised that in his address to Council, reference was made to people working under the EPWP and further indicated that he was not certain as to which part of his statement was to be withdrawn.**

**With Beetge being viewed to be sarcastic in his response, a heated debate ensued, with the majority of the Council members citing an insult and complacent conduct displayed by Councillor Beetge.**

**Thereafter, The Acting Speaker reiterated the need for Beetge to withdraw the word “these people”, and following resistance, in the end Beetge withdrew the words cited. Notwithstanding the withdrawal, Beetge was also requested to extend an apology for having pronounced these words in the first instance. However, despite numerous requests by the Acting Speaker for Beetge to extend and apology, there was no cooperation in this regard.**

**The Acting Speaker was then left with no other option but to rule that Councillor Beetge must leave the meeting. Once again, there was resistance to comply with the ruling by the Acting Speaker.**

*(As there was now commotion in the meeting room as a result of Beetge’s resistance to leave the meeting room, the DA requested five (05) minutes caucus the time being 13h52. The request was granted accordingly. On the other hand, the Speaker declared comfort break. The meeting subsequently resumed at 15h02)*

**The DA provided report back from caucus and referred to unfortunate events which have unfolded as a result of utterances by Councillor Beetge. A request was then made for Cllr Beetge to rejoin the meeting to address the Council. Mixed feelings were displayed in this regard, but the Acting Speaker eventually exercised his discretion to accede to the request. Thereafter, with the DA having made an appeal for Councillor Beetge to remain in the meeting, this was not accepted and with various Members voicing dissatisfaction with Beetge’s conduct and therefore drawing the meeting to a standstill. The Speaker reiterated that his ruling stands, that of getting Beetge to leave the meeting, and the Administration was then requested to facilitate this removal.**

**Following continuous pressure for Beetge to leave the meeting, he finally complied, although the DA felt that the Rules of Order By-Law was used inconsistently by the Acting Speaker in addressing this matter. In response, the Acting Speaker drew attention to the rights accorded to him in terms of the Rules to provide strategic guidance where different views prevail.**

*(Accordingly, at this stage of the proceedings, the time being 15h24, Councillor A Beetge left the meeting)*

**The Acting Speaker then called for Members to maintain decorum to proceed with deliberations. Thereafter, reverting back to the substantive matter, the ACDP supported the EPWP operations and proposed contracts extension in view of significant contribution made by this Programme to alleviate poverty. It being emphasized that appropriate tools of trade be provided for the EPWP beneficiaries, as well as strengthening monitoring and supervision for duties to be carried out in accordance with the expected performance standards.**

Also commenting, the ActionSA while noting good intentions of the Programme, indicated that it has since been compromised by the irregularities reported and thus its outcomes also compromised. A recommendation was then made that consideration be given for the EPWP recruitment to be done on a rotational rather than continuous basis, thereby achieving broader participation by different groups of people.

Also joining the debate, the DLC supported the EPWP and emphasised that this Programme is essential for the purpose of generating employment opportunities for many people. That the Municipality should consider fastracking the process of lobbying National Government to increase the EPWP incentive grant to match the service delivery demands of the City of eThekweni.

Also in support of the Programme, the IFP encouraged the Municipality to create conducive working environment for the EPWP beneficiaries. With a proposal being made that appropriate steps be taken for the beneficiaries to be provided with additional benefits, including medical aid, and stipend increased to achieve minimum stipend of R6000.00 (Six Thousand Rand) per month.

Joining the other Political Parties, the APF registered its support of the Programme, pointing out the significance of respecting and appreciating the EPWP given the benefits to needy people. Also concurring with the IFP regarding the proposed restructuring of the EPWP stipend.

Thereafter, the ANC noted with appreciation that most Political Parties acknowledge the benefits and contributions made as the result of the EPWP. It was then reiterated that the eThekweni Municipality is due to sign new Memorandum of Agreement with the National Department of Public Works and Infrastructure (NDPWI) to receive the 2023-24 financial year EPWP Incentive Grant. Further, that with the scope of the eThekweni EPWP operations attracting additional expenditure, Management has been tasked to identify and allocate top up funding to sustain the Programme and achieve maximum financial impact to beneficiaries.

The view raised to respect and appreciate the EPWP was echoed, the attention being drawn to the fact that the EPWP operations differ from office bound operations, thus leaving the EPWP beneficiaries vulnerable to negative judgement as they are visible on the field. Detailed control measures governing the EPWP operations were then outlined to confirm effective monitoring and enforcement thereof. That, any wrongdoing observed be reported accordingly to the relevant authorities, for all to partner in a bid to continue protecting the Programme and according it the dignity it deserves, whilst also striving to achieve the objectives of preparing beneficiaries to access better formal job opportunities.

Also commenting on the Programme, the EFF expressed concern over what they viewed as a slow pace in creating conducive environment for permanent employment opportunities. They also acknowledged control measures being put in place, including the verification process undertaken which resulted in the reduction of the EPWP beneficiaries by five thousand eight hundred (5 800) people, with this not being limited to deceased beneficiaries, but also including irregularities identified. In this regard, the EFF requested details of the specific projects which have been allocated to the 5 800 EPWP beneficiaries now eliminated through the verification process.

The EFF then recommended that continuous renewal of contracts should be stopped and consider insourcing this Programme within the formal Municipal operations and consider providing added benefits for beneficiaries engaged.

In concluding discussions, His Worship the Mayor made reference to the development of the EPWP exit strategy, which also talks to absorbing within the Municipality the beneficiaries exiting the Programme, even though uncertainty exists at this stage whether there will be capacity to absorb all given the applicable threshold on personnel to be engaged by the Municipality. Speaking on added benefits recommended, clarity was provided that the EPWP is designed as a two (02) year short-term income relief programme. Therefore, given the structure and the duration of the Programme, it might be impractical for the Municipality to provide certain added benefits.

Thereafter, as some members were not in support of the recommendations, the matter was put to the vote. With 185 Councillors present, 136 Councillors (ANC - 85, EFF - 20; IFP- 14, Action SA -02, ABC - 02; ACC - 02, ACDP - 01; DLC - 01; ADEC - 01; APF - 01; AIC- 01; ATM - 01; ALJAMAH - 00; JEP -00; KZNI - 01, MOSA- 01, NFP - 00; PFP - 00, PRM - 01; TA- 01 and UIM - 01) voted in favour of the recommendations and 48 Councillors (DA- 47 and VF Plus - 01) voted against the matter. The MF Councillor (01) abstained on the matter.

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

3.3

ADDENDUM TO THE INTEGRATED DEVELOPMENT PLAN (IDP) 2022/2023  
MID-TERM AMENDMENTS TO THE ORIGINAL ORGANISATIONAL  
SERVICES DELIVERY AND BUDGET IMPLEMENTATION PLAN (2/1/6/1)

(Page 8)

In terms of Section 54 (1) (c) of the Local Government: Municipal Finance Management Act 2003, “the Mayor must (c) consider and, if necessary, make any revisions to the Service Delivery and Budget Implementation Plan (SDBIP), provided that the revisions to the service delivery targets and performance indicators in the plan may only be made with the approval of the adjustment budget”. That due to challenges experienced in reporting on certain Circular 88 indicators from the National Treasury and indicators developed for the 10-point plan, SDBIP amendments are proposed for Council adoption to remove certain indicators from the SDBIP. Further, that these indicators will be incorporated in the bottom layer of the SDBIP for the 2023/2024 financial year.

With the Committee being in concurrence,

COMMITTEE RECOMMENDS:

That in terms of Section 54 (1) (c) of the Local Government: Municipal Finance Management Act No. 56 of 2003, an addendum to the Integrated Development Plan 2022/2023: Mid-Term amendments to the Original Organisational Services Delivery and Budget Implementation Plan, as indicated in the schedule attached to the report of the City Manager dated 2023-06-26 relative hereto, be adopted, it being recorded that the supplements relate to the following:

- (a) Cross Cutting Indicators - Financial indicators to be reported on Plan 8, Human Capital indicators to be reported on Plan 5 and moved to the lower layer for all other plans to eliminate duplication;
- (b) 10-point plan Indicators – These indicators will be moved to the lower layer of the 2023/2024 SDBIP due to reporting challenges as indicators are of a long-term nature or there are duplications identified;
- (c) Circular 88 Indicators – Due to Organisation readiness the financial indicators will be reported on Plan 8, and other indicators cannot be reported as there are no mechanisms to measure.

**ADOPTED.**

3.4

REQUEST FOR AUTHORITY TO TRANSFER FUNDS TO THE INKOSI ALBERT LUTHULI INTERNATIONAL CONVENTION CENTRE IN ACCORDANCE WITH THE APPROVED 2023/2024 BUDGET (7/1/3/2)

(Page 36)

Authority is sought to transfer funds to the Inkosi Albert Luthuli International Convention Centre (ICC) in accordance with the approved 2023/2024 budget. To also seek Council commitment to ensure financial viability of the entity in case of inadequate allocation. The ICC is a Council-owned entity which has been operating in excess of twenty (25) years. The entity serves as local economic hub and the development of the City's tourism through its capabilities to host national and international events with success.

The entity has been allocated grant funding which was approved as part of the 2023/2024 Municipal operating budget. The entity requires funding of R15 000 000.00 (Fifteen Million) to undertake various capital projects essential towards effective operations of the entity, including replacement of leaking roof in its Durban Exhibition Centre property, cherry picker etc. The Municipality is also required to provide an undertaking to ensure that the entity remains a going concern which is an important consideration when compiling Annual Financial Statements.

Upon deliberation, words of gratitude were extended to the entity for obtaining a clean audit outcome despite the triple disasters which befell the City of eThekweni affecting operations within the entity.

However, the DA abstained on the matter opposing the requirement for the Municipality to commit financial assistance to sustain the entity. With the other Political Parties being in support,

**COMMITTEE RECOMMENDS:**

3.4.1

That Council approves disbursement of funds on a reimbursable basis to the Inkosi Albert Luthuli International Convention Centre (ICC) in the amount of R15 000 000.00 (Fifteen Million Rand) for the following capital projects which are essential to maintain and operate the ICC complex:

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

3.4.2

That with Council noting that the ICC operates close to a break-even level, the Municipality confirms its commitment to meet any funding shortfalls that may be required to ensure that the ICC continues trading as a “going concern”.

**Financial Implications:**

Grant funding of R15 000 000.00 (Fifteen Million Rand) has been provided in the 2023/2024 financial year.

FC No.: 2024/13/01

**Commenting on the matter, the DLC emphasised that the ICC, is a fundamental Municipal Entity and the Council therefore has a responsibility to ensure its financial viability. Further highlighting that since its inception, the ICC has received various international awards and has been able to sustain itself prior to the triple disasters. Also citing that over the years, the ICC has been receiving Clean Audit outcomes. In this regard, the recommendation was supported, with recognition given to the ICC’s capabilities to attract and host national and international events with success.**

**The DA confirmed that ICC is the World-renowned International Convention Centre, competing with other National and International Convention Centres across the globe. That a need exists for the operations of the other Municipal Units to translate into supporting the ICC operations for this Entity to reach its full potential due to tapping into value chain services, others that attract events to the ICC. In this view, a synergistic approach in undertaking Municipal operations was recommended for certain gains of the Municipal Units to impact the ICC in a positive manner in terms of redirecting business to this Entity.**

**Also speaking on the matter, the IFP mentioned that the Municipality should continue supporting its Entities to achieve financial viability, in line with the City’s 2030 vision of being Africa’s most caring and liveable City.**

**Thereafter, the ANC concurred that the functions and operations of all Municipal Units should contribute to the functionality of the Municipal Entities (ICC and Ushaka Marine World). However, it was highlighted that following the Covid-19 pandemic, and the July 2021 Civil Unrest; the operations of both Entities were severely affected, reference being made to the unfortunate closure of the iconic Hilton Hotel and thus a huge dent on the City’s employment status.**

**Further, the ANC noted with appreciation that both the Municipal Entities have been able to operate amid the challenges. However, their sustainability and ability to fund projects have been negatively impacted. The attention was drawn to the visits undertaken by the Executive Committee to conduct comprehensive assessment of their operations and their performance outcomes. That, the visit revealed that both Entities have full potential to operate maximally, with potential projects explored which could generate revenue for the Entities. Therefore, processes would proceed to see to it that the projects come into operation.**

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



3.5

REQUEST FOR AUTHORITY TO TRANSFER FUNDS TO THE DURBAN  
MARINE THEME PARK IN ACCORDANCE WITH THE APPROVED 2023/2024  
BUDGET (7/1/3/2)

(Page 38)

Authority is sought to transfer funds to the Durban Marine Theme Park (DMTP), trading as Ushaka Marine World, in accordance with the approved 2023/2024 budget and to seek Council commitment to ensure financial viability of the entity in case of inadequate allocation. The City has 100% ownership over the entity located along the coastal line as the main attraction around the beachfront since 2003.

It was recalled that the DMTP has an indefinite agreement with the South African Association for Marine Biological Research (SAAMBR), which is a Non-profit Organisation responsible for maintaining marine life of the entity. The annual grant funding provided by the Municipality is then disbursed through the SAAMBR in quarterly tranches by the entity. The operations of the entity consist of the following offering:

- Sea World
- Wet 'n Wild
- Ushaka Kids World (currently closed for renovations)
- Sea Animal Encounter Island
- Dangerous Creatures
- Village Walk (Retail Mall)

Grant funding has been approved as part of the 2023/2024 Municipal operating budget. The provisions are as follows:

Operations	Funding
SAAMBR	R72 262 060
Ushaka Marine World	R19 000 000
Capital Projects	R20 000 000
Repairs and Maintenance	R18 342 911

It should be noted that the allocations for capital projects; repairs and maintenance are paid on a reimbursable basis supported by original invoices. Whereas the operating grant will be paid in two equal tranches at the end of September 2023 and at the end of March 2024.

During deliberations at the Executive Committee, the significance of the entity towards local economic growth and the tourism sector was acknowledged. However, reservations were expressed on the need for the Municipality to commit financial assistance, mention being made that all operations of the entity be confined to the allocated budget. Also, that contingency fees be in place when a need arises to sustain the entity.

It being noted that R72 Million funding is allocated to SAAMBR, and that the remaining allocation is not sufficient to undertake all operations of the Theme Park. Therefore, the Theme Park was encouraged to continue exploring other means to sustain its operations. On the other hand, the Durban Marine Theme Park was applauded for sustaining jobs with 0% retrenchment during the Covid-19 pandemic and for managing to obtain a clean audit outcome amidst the challenges.

Notwithstanding the information given, the DA abstained on the matter, with other Political Parties being in support,

**COMMITTEE RECOMMENDS:**

- 3.5.1 That Council approves the disbursement of R72 262 060.00 (Seventy-Two Million Two Hundred and Sixty-Two Thousand and Sixty Rand) to the Durban Marine Theme Park (DMTP) in four (04) equal quarterly tranches for the work undertaken by the South African Association for Marine Biological Research (SAAMBR).
- 3.5.2 That Council approves the disbursement of R19 000 000.00 (Nineteen Million Rand) to the Durban Marine Theme Park for the DMTP operations in two (02) equal quarterly tranches at the end of September 2023 and at the end of March 2024.
- 3.5.3 That Council approves the disbursement of funds on a reimbursable basis to the DMTP in the amount of R20 000 000.00 (Twenty Million Rand) for capital projects and R18 342 911.00 (Eighteen Million Three Hundred and Forty-Two Thousand Nine Hundred and Eleven Rand) for repairs and maintenance.
- 3.5.4 That subject to the adoption of .1, .2 and .3 above, authority be granted for the City Manager to disburse these funds to the DTMP.
- 3.5.5 That with Council noting that the DMTP operates close to a break-even level, the Municipality confirms its commitment to ensuring the future financial viability of the DMTP and to meet any funding shortfalls that may compromise the DMTP to continue trading as a “going concern”.

**Financial Implications:**

Grant funding of R129 604 971.00 (One Hundred and Twenty Nine Million Six Hundred and Four Thousand Nine Hundred and Seventy One Rand) has been provided in the 2023/2024 operating budget.

FC No.: 2024/13/03

**Speaking on the matter, the IFP reiterated the need for the Municipality to continue supporting its Entities to achieve financial viability. That reviving other historical tourist attractions in the Durban Point precinct is key to the Ushaka Marine World realizing its full potential.**

**Meanwhile, the ActionSA, while in support of the recommendation, queried the Municipality’s intention and plan around the Durban Beach Front (Fun World) following its closure, and citing that this facility contributed to attracting tourists to the Beach Front.**

**Also joining the deliberations, the DA highlighted the essence of the Entity becoming a Municipal asset generating revenue to then free the Municipality to focus on other key service delivery mandates. Emphasis was then put on reviving attractions in the Ushaka Marine World precinct and for the planned expansion programmes to be geared towards the facility achieving competitive advantage over its counterparts.**

**Also supporting the recommendations, the EFF cautioned though that tangible development projects should be seen for this facility to achieve competitiveness and attract investors. That, sadly the facility appears to be declining rather than growing for maximum potential. The financial muscle by the Municipality was supported as the facility was still key to generating job opportunities and**

contributing to the youth tapping into marine biology thereby promoting oceans economy. The EFF undertook to continue monitoring the performance of this Entity to assess its growth potential.

Concluding the debate, the ANC welcomed the contributions from the Political Parties, and spoke on the Municipal initiatives in this precinct, that of leasing land for investors to develop sites for the destination to serve as tourists' attraction. Cognisance taken that upgrades are required for the precinct to keep up with the evolving nature of the tourism sector and to compete with other international Theme Parks. It was also acknowledged that a need exists to address bottlenecks in the procurement process for this to respond adequately to the operational requirements of the Entity. Also, looking into measures to promote transport linkages to increase accessibility. Investment attraction was considered key to upgrading outlook of the precinct, hence, investment promotion plans have been developed by the Municipality and presented to potential international investors.

Accordingly, the Executive Committee recommendations were; **ADOPTED.**

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

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## SECOND REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2023-06-29)

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

ABSENT : Executive Committee Member TM Mthethwa (Leave - Indisposed).

*(It should be noted that the two (02) DA Members left the meeting before consideration of the below items.)*

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1. REQUEST FOR AUTHORITY TO TRANSFER FUNDS FROM X-STORM DISASTER PROJECTS TO Y-STORM DISASTER PROJECTS UNDER THE MUNICIPAL DISASTER RESPONSE GRANT ALLOCATION FOR ETHEKWINI WATER AND SANITATION OPERATIONS (23/1/9)

(Page 1)

Authority is sought for the transfer of funds under the Municipal Disaster Response Grant (MDRG) allocation for eThekweni Water and Sanitation Operations. It will be recalled that following the National Disaster Declaration dated 18 April 2022 (Gazette No. 46247) by the National Department of Cooperative Governance and Traditional Affairs (COGTA) through the National Disaster Management Centre

(NDMC), National Treasury approved the request from COGTA through NDMC to allocate funds to Municipalities against the 2022/2023 MDRG in response to the flood disasters.

In this regard, eThekweni Municipality received an allocation of R185 000 000.00 (One Hundred and Eighty-Five Million Rand) from the MDRG to undertake all storm related damages. EThekweni is responsible for providing water and sanitation services, including maintenance of its infrastructure. In this regard, the grant received by the Municipality was allocated to the following implementing Departments:

**Water and Sanitation Unit (R114 382 090.32)**

- Sanitation Operations - R49 693 783.00
- Water Operations - R64 638 306.00

**Engineering Unit (R70 671 909.00)**

- Roads Provision - R34 584 468.48
- Coastal and Stormwater - R 6 200 000.00
- Roads and Stormwater Maintenance - R30 387 441.20

It being noted that from the allocated R114 382 090.32 for Water and Sanitation, the NDMC approved for the Municipality to utilise savings declared in the amount of R10 800 000.00 (Ten Million Eight Hundred Thousand Rand) from the completed storm disaster projects identified as Projects (X8611, X8613, X8614, X8619, Q8615 and X8637). It being further noted that approval has also been granted to transfer identified savings to storm disaster Projects (Y9183, Y9197, Y9196 and Y9189), the breakdown of the declared savings is as follows:

Project No.	Description	Ward No.	Budget Allocated	Total expenditure at project completion	Declared Savings
X8611	Gabion protection works for a 400mm bulk pipe line at Canterbury Village, Camelot Hillcrest	10	2 242 153.00	450 485.00	1 791 515.00
X8613	Dassenhoek gabion protection works for a 300mm bulk pipeline	14	1 200 000.00	1 076 768.00	123 112.00
X8614	Wyebank Reservoir Gabion protection work	19	4 100 000.00	1 265 864.01	2 834 912.99
X8619	Drummond 16 Buffels Drift Road Gabion protection works for a 1600mm steel line	103	200 000.00	196 992.00	3 008.00
X8615	Reservoir Hills Quarry Road Gabion protection works for a 600mm steel trunkline	23	1 200 000.00	1 172 000.00	28 000.00
X8637	Washed away embarkment support to command reservoir (Chats 2 Reservoir – Westcliff)	70	7 000 000.00	928 380.00	6 071 120.00
<b>TOTAL</b>			<b>15 942 153.00</b>	<b>5 090 485.01</b>	<b>10 851 667.99</b>

Thereafter, Members acknowledged the importance to grant approval for the transfer of funds, mention being made that this was critical in responding to service delivery challenges as well as storm damages. However, the EFF abstained on the matter, citing that the Chairperson of the Human Settlements and Infrastructure Committee should have been made aware of the matter prior to the report being submitted directly to the Executive Committee. Assurance was then given that similar incidence will not occur in the future. Thereafter, with other Political Parties being in support,

**COMMITTEE RECOMMENDS:**

- 1.1 That, given the authority already granted by the National Disaster Management Centre, Council also grant authority for the Head: Water and Sanitation to transfer savings identified from completed X-Storm Disaster Projects (X8611, X8613, X8614, X8615, X8619 and X8637) in the amount of R10 851 667.99 (Ten Million Eight Hundred and Fifty One Thousand Six Hundred and Sixty Seven Rand Ninety Nine Cents) to undertake Y-Storm Disaster Projects (Y9183, Y9196, Y9197 and Y9189) as per the table listed below:

**Transfer schedule for X-Storm Disaster Projects (X8611, X8613, X8614, X8615, X8619 and X8637) to Y-Storm Disaster Projects (Y9183, Y9196, Y9197 and Y9189):**

Project No.	Description	Ward No.	Scope of Works	Status	Top Required	Amount to transfer from X-Projects to Y-Projects
					<b>R</b>	<b>R</b>
X-Projects X8611, X8613, X8614, X8615, X8619 and X8637	Total Budget of X-Projects to transfer to Y-Projects	N/A	N/A	N/A	N/A	10 851 667.99
Y9183	Riet River along Venus Road, Ottawa 450mm Diameter steel sewer trunk main and 315mm diameter UPVC Sewer Trunk Main, Manholes and Piers washed away.	102	Replacement of approximately 60m of 450mm and 315mm dia sewer mains – "29°39'52.5""S	Completed	9 119 653.33	9 119 653.33
Y9197	91 Edmund Moor Wood Street	61	Replacement of approximately 350mm diameter concrete sewer trunk main and Manholes washed away "29°34'25.7""S	Completed	1 212 150.16	1 212 150.16
Y9196	49 Winston Churchill Drive, Farningham Ridge Sewer Replacement/Repair for above 300 dia meter	18	Repairs to washed away 450mm diameter concrete pipe of 130m -49 Winston Churchill Dr, Farningham Ridge, Pinetown, 3610 – "29°49'48.7""S	Completed	435 438.46	435 438.46
Y9189	HowLong Park - uMlazi	86	Replacement of approximately 50m of 600mm dia elevated steel gravity sewer Main "29°59'19.5""S	Completed	1 427 645.97	84 426.04

Speaking on the matter, the IFP supported the recommendations, however, expressing concern that the report was not submitted to the Human Settlements and Infrastructure Committee in the first instance, thus depriving the Committee of the opportunity to play effective oversight over this item.

Meanwhile, the ActionSA expressed the view that the Unit has failed to implement planned projects as well as the budget allocated thereto. The transfer of funds from one project to another was viewed as budget dumping exercise.

The ANC then cited continued efforts to restore damaged infrastructure following the April 2022 floods. Therefore, budget transfer was considered critical as this does not translate to additional funding requirements, but involves existing Council-approved budget restructuring to focus on projects readily available for implementation following completion of associated procurement processes and where emergency repairs are required based on faults that could result to major further damages if left unattended.

Consequently, the above recommendations of the Executive Committee were;  
**ADOPTED.**

2. REQUEST FOR AUTHORITY TO TRANSFER FUNDS FROM PROJECTS X8634 AND X8635 TO PROJECT X8638 UNDER THE MUNICIPAL DISASTER RESPONSE GRANT ALLOCATION FOR ETHEKWINI WATER OPERATIONS (23/1/11/1/1/2)

(Page 9)

It will be recalled that the National Disaster Management Centre (NDMC) allocated grant funding to the Municipality to undertake repairs to storm related damages within a specified period. Thereafter, the Water and Sanitation Unit requested extension of the implementation period, which was granted accordingly by the NDMC. The extension was granted for five (05) projects, however at the time of gazetting the grant funding, the three (03) of the five (05) projects were already completed using Council funds. The five (05) projects were to cost the amount of R48 692 153.00 (Forty Eight Million Six Hundred and Ninety Two Thousand Rand One Hundred and Fifty Three Rand). In view of other projects having been completed, the Water and Sanitation Unit requested to transfer funds in the amount of R44 000 000.00 (Forty Four Million Rand). In response, the NDMC approved the transfer half of this amount, which is R21 359 000.00 (Twenty-One Million Rand Three Hundred and Fifty Nine Thousand Rand).

Authority is therefore sought to transfer R21 359 000.00 (Twenty-One Million Rand Three Hundred and Fifty Nine Thousand Rand) from Projects X8634 and X8635 to Project X8638 under the Municipal Disaster Response Grant (MDRG) allocation for eThekweni Water and Sanitation Operations.

Thereafter, the EFF abstained on the matter, citing similar sentiments raised on the previous item. With other Political Parties being in support,

**COMMITTEE RECOMMENDS:**

That, given the authority already granted by the National Disaster Management Centre, Council also grant authority for the Head: Water and Sanitation to transfer R21 359 000.00 (Twenty One Million Three Hundred and Fifty Nine Thousand Rand)

from Projects X8635 and X8634 which is R5 629 000.00 (Five Million Six Hundred and Twenty Nine Thousand Rand) and R15 730 000.00 (Fifteen Million Seven Hundred and Thirty Thousand Rand) respectively to Projects X8638 damaged 150m of 375mm diameter asbestos cement pipeline (diversion and upgrade of existing 375mm diameter pipeline from Amanzimtoti Water Works to Lewis Drive Reservoir as per the table listed below:

**Transfer schedule for X8638:**

Project No.	Description	Ward No.	Area: Town, Village, etc.	Total allocation by NDMC	Final Project Offer for X8638	Total Amount Committed	Total Project amount to transfer to X8638	Total NDMC Approved Amount added to X8638
				R	R	R	R	R
X8636	Damaged 234m of 600mm diameter steel pipeline (825mm dia. steel SCA pipeline washed away across pipe bridge over Umlazi Canal)	74	Wema	14 000 000.00	N/A	-	<b>0.00</b> (14 000 000.00 to be declared as savings)	-
X8635	Damaged 150m of 600mm diameter steel pipeline (750mm dia. steel pipeline – pumping main from Wiggins WTW	24	Cato Manor	12 270 000.00	N/A	-	<b>5 629 000.00</b> (6 641 000.00 to be declared as savings)	-
X8634	Damaged 100m of 350mm diameter HDPE pipeline under a culvert bridge (Bayhead)	32	Maydon Wharf	15 730 000.00	N/A	-	<b>15 730 000.00</b> (0.00 to be declared savings)	-
X8638	Damaged 150m of 375mm diameter asbestos cement pipeline (Diversion and upgrade of existing 375mm diameter pipeline from Amanzimtoti Water Works to Lewis Drive Reservoir	109 & 97	Amanzimtoti	4 000 000.00	82 504 933.12	-	-	21 359 000.00
X8639	Replacement and protection of existing 250mm diameter pipeline along M37	97	KwaMakhutha	2 692 153.00	N/A	692	<b>0.00</b> (1 999 718.58 to be declared savings, 692 434.42 to spend)	-
<b>TOTAL</b>				<b>48 692 153.00</b>	<b>82 504 933.12</b>	<b>692 153.00</b>	<b>(Total to be declared savings is 22 640 718.58)</b>	<b>21 359 000.00</b>

3. FINAL 2023/2024 SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) (2/1/6/1)

(Page 21)

In terms of Section 53 (1) of the Municipal Finance Management Act No 56 of 2003, the Municipality is empowered to approve its Service Delivery and Budget Implementation Plan within 28 days after the approval of the Municipal Budget. It would be recalled that eThekweni Municipal Council approved its budget on 31 May 2023. Accordingly, in compliance with the statutory requirement, the final SDBIP comprising targets drawing from the Integrated Development Plan target is submitted for approval by the Municipal Council.

With the Committee being in support,

**COMMITTEE RECOMMENDS:**

That in terms of Section 53(1) of the Local Government: Municipal Finance Management Act No. 56 of 2003, the final eThekweni Municipality (including its entities) Service Delivery and Budget Implementation Plan for 2023/2024 financial year, with the breakdown contained in the table below, be approved.

<b>Plan No</b>	<b>Plan Name</b>	<b>Total No. of KPIs per Plan 2023/2024</b>
1	Develop and sustain our Spatial, Natural and Built Environment	15
2	Developing a Prosperous, Diverse Economy and Employment Creation	18
3A	Creating a Quality Living Environment – Trading Services	36
3B	Creating a Quality Living Environment - HSET	34
3C	Creating a Quality Living Environment – Strategy Office	6
4A	Fostering a Socially Equitable Environment	8
4B	Fostering a Socially Equitable Environment	20
5	Supporting Design, Human Capital Development and Management	24
6A	A vibrant and creative City - the foundation for sustainability and social cohesion	6
6B	Stadia Facilities Unit	2
6C	Agro-Ecology	1
7A	Good Governance and Responsive Local Government	12
7B	Good Governance and Responsive Local Government	4
7C	Good Governance and Responsive Local Government	2
8	Financially Accountable and Sustainable City	44

**Summary of KPI's per Entity:**

<b>Plan Number</b>	<b>Plan Name</b>	<b>Total number of Key Performance Indicators (KPI's) per Entity 2023/2024</b>
Plan 21	ICC	17
Plan 22	DMTP	24



Commenting on the report, the IFP emphasized the importance and considered it prudent to monitor set targets thus ensuring performance achievements aligns accordingly with the predetermined targets. Also, monitoring effective utilization of public funds to protect the interests of the residents of eThekweni and also hold the Municipal officials to account for the performance standards.

The ANC then emphasized the importance of monitoring projects implementation against budget allocated to ensure effective service delivery. That, budget allocation and approval thereof would always be biased towards responding to the plight of the people of eThekweni. That the City prides itself for working tirelessly to undertake budget reshuffling thus eventually managing to revise downwards some of the Municipal tariffs, which initiative was also implemented in response to the comments received through the budget public participation process.

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

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

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### **THIRD REPORT OF THE EXECUTIVE COMMITTEE**

(Special Meeting held on 2023-07-06)

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

ABSENT : Executive Committee Members ZP Myeni (Deputy Mayor) (Leave – Municipal Business) and MS Nkosi (Leave- Personal Commitments)

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1. REPORT OF THE COMMUNITY SERVICES COMMITTEE: MEETING HELD: 2023-06-23

(Page R1)

1.1 Request for Identification of Funding to Undertake Repairs to the Parks, Recreation and Culture Unit's Buildings Condemned by the Department of Labour (17/2/2/2/1): (Page 56: Community Services Committee - Agenda 2023-06-15)

The Parks, Recreation and Culture Unit is responsible for the management and maintenance of its infrastructure within the City. Recently a number of its buildings have been condemned by the Department of Labour and the Municipality's Occupational Health and Safety Unit. This pose a risk to the occupants of the buildings,

both officials and members of the community. Accordingly, authority is therefore sought for the Chief Financial Officer to support the Unit to identify funds to undertake repairs and maintenance to the buildings concerned.

The buildings impacted in this regard include:

- i) Botanical Gardens
- ii) Springside Nature Reserve
- iii) Truro Road Depot
- iv) Reunion Eco Centre
- v) Umlaas Filter Eco Centre
- vi) Umbilo Eco Centre
- vii) Umngeni Bird Park Show

The buildings have been condemned based on various reasons including water and sanitation issues, vandalism to building structures, deterioration as a result of some of the buildings being old and natural disasters.

The closure of these facilities places pressure on the Unit. The relocation of staff impact on service delivery and production and is unsustainable in medium to long term. It further highlights the urgent requirement for funding to effect the repairs of these facilities. It is estimated that the repairs and maintenance will cost an amount of R23 million which amount needs to be identified in the 2023/2024 and 2024/2025 financial years, as per the breakdown reflected in the recommendation below.

The Committee emphasised the importance of involving the Water and Sanitation Unit to ascertain all types of repairs and maintenance that needed to be done by this Unit. It was also emphasised that repairs and maintenance to Council infrastructure be undertaken timeously, and that security be increased in these buildings.

With the Committee being in agreement that this project is of an urgent nature given the interruptions to service delivery as well as potential to render some of the staff members unproductive.

Some Members of the Executive Committee expressed concern that service delivery will be interrupted as a result of the condemned buildings. A recommendation was then made that audit of land and buildings be conducted for the Municipality to be proactive in assessing risks associated therewith.

During discussion, the Committee was then informed that not all service delivery points have been affected since in some buildings it is just a certain portion of the building being condemned. Also, that the involvement of other Service Delivery Units is required since some of the decisions to condemn the buildings stem from the operations falling outside the jurisdiction of the Parks, Recreation and Culture Unit.

It was confirmed though that with the maintenance budget having been increased this will inform proactive approach to effectively maintain buildings. However, that discussions are underway with a view to exploring options for the Engineering Unit to take-over the process of managing buildings infrastructure from a specialist point of view and with this approach to result in the adoption of proper maintenance plan from an informed premise.

With the Committee noting interventions surrounding this matter, and also supporting the recommendations pertaining to the current situation,

COMMITTEE RECOMMENDS:

- 1.1.1 That Committee notes the recommendations made by the Department of Labour and the eThekweni Municipality's Occupational Health and Safety Unit to condemn seven (7) facilities of the Parks, Recreation and Culture Unit, namely, Botanical Gardens, Springside Nature Reserve, Truro Road Depot, Reunion Eco Centre, Umlaas Filter Eco Centre, Umbilo Eco Centre and Umngeni Bird Park Show Area within the Parks, Recreation and Culture Unit due to the buildings deemed unsafe for staff to render effective service delivery.
- 1.1.2 That in view of .1 above and considering the impact on staff and citizens in terms of the Eco Centres as a result of the unavailability of these facilities, authority be granted for the Chief Financial Officer to identify funding in the amount of R23 Million in the 2023/2024 and 2024/2025 financial years, to urgently undertake the repairs and maintenance to the buildings concerned, as per the breakdown in the table below:

FACILITY	AMOUNT REQUIRED
Botanical Gardens	R5 500 000.00
Springside Nature Reserve	R3 000 000.00
Truro Road Depot	R7 000 000.00
Reunion Eco Centre	R500 000.00
Umlaas Filter Eco Centre	R2 000 000.00
Umbilo Eco Centre	R1 000 000.00
Umngeni Bird Park Show Area	R4 000 000.00
<b>TOTAL</b>	<b>R23 000 000.00</b>

The DA expressed dismay that the buildings in questions have been left to deteriorate with no proper maintenance plan in place. It was recommended that proper monitoring be undertaken to ensure timeous commencement of repairs and maintenance of the Municipal buildings across the board. That capital budget be allocated for infrastructural projects and fastracking tender processes for architectural work to commence speedily.

Also speaking on the item, the EFF supported the recommendations and further emphasised that employees impacted as a result of the condemned buildings and to be due for renovations should be catered for in terms of being reassigned for them to continue being gainfully employed and thereby not compromising service delivery.

Thereafter, the ANC clarified that the Architecture Department is responsible for the management and maintenance of the Municipal buildings. Clarity being also given that the buildings cited have been condemned for various reasons, including water and sanitation issues, vandalism to building structures, deterioration because of some of the buildings being old and natural disasters. It was reported that employees at these facilities have been deployed elsewhere and therefore services would not being affected.

Accordingly, the above recommendations of the Executive Committee were;  
**ADOPTED.**

1.2 Request for Authority to Remove Duplicate Assets from the Asset Register of Libraries and Heritage Department (8/1/2):  
(Page 67: Community Services Committee - Agenda 2023-06-15)

Approval is sought for the Libraries and Heritage Department to remove duplicate assets that do not physically exist in various Libraries and Heritage sites but were recorded twice on the asset register system (JDE). Currently, the records for these assets appear on the asset register as of 30 June 2023. The Department subsequently embarked on an asset register clean-up drive to ensure that all assets appearing on the register were in existence at their current locations. Physical verification of assets was undertaken during the 2021/2022 financial year and the reconciliation process revealed that 1150 assets were still appearing as duplicate assets to be written off. It being noted that most of the duplicated items comprised of various furniture items, electronic equipment and are older than 15 years.

The Executive Committee noted explanation provided on the manner in which assets verification process is undertaken. Mention being made that discrepancies are sometimes experienced when reconciling physical manual verification and information uploaded on the JDE system. That the Units are expected to complete disposal forms to aid the assets disposal reconciliation process.

Meanwhile, the Executive Committee cautioned that identification be made whether assets are being lost due to non-adherence to the assets disposal system and where there are elements of theft. Thereafter, a recommendation was made to review the Assets Disposal Policy to make provision for the Municipality to donate to Non-Government or Non-Profit organisations; creches and any other needy establishments, the unused Municipal assets but still in good conditions.

With the Committee supporting mechanisms to strengthen the assets disposal processes for effective asset management,

**COMMITTEE RECOMMENDS:**

- 1.2.1 That authority be granted to the Head: Parks, Recreation and Culture to write off 324 duplicated assets from the asset register and subsequent to the write off of the said assets, an amount of R258 250.00 (Two Hundred and Fifty Eight Thousand Two Hundred and Fifty Rand) be moved to the existing asset records.
- 1.2.2 That authority be granted to the Head: Parks, Recreation and Culture to write off 636 Departmental Upload (DEPUP) assets in the amount of R172 850.00 (One Hundred and Seventy Two Thousand Eight Hundred and Fifty Rand) that cannot be located. It being noted that all means of searching for the assets has been exhausted.
- 1.2.3 That authority be granted to the Head: Parks, Recreation and Culture to match up the 118 duplicated assets on JDE (DEPUP) with the physical assets that do not appear on the JDE. The 118 duplicated assets amounts to R172 850.00.
- 1.2.4 That subsequent to approval of .1, .2 and .3, authority be granted that the balance of the of 72 small items in the form of kettles, stapes, paper bins, etc., costing less than R500 (Five Hundred Rands) but appear on the JDE system as per DEPUP, be removed from the asset register.

**Financial Implications:**

None.

**ADOPTED.**

1.3

Request for Authority to Dispose Assets that are Damaged and not Recorded on the JDE System (8/1/3):

(Page 104: Community Services Committee - Agenda 2023-06-15)

Authority was sought to dispose 1129 assets that are physically in existence in various libraries, such as furniture and electronic items that are damaged or no longer usable but are not recorded on the JDE System, whereby a normal disposal process may not be followed. Some of the items have been stored for more than ten (10) years at certain libraries and are occupying valuable office space. The said assets have also been deemed posing health and safety hazard as per the Health and Safety Committee meetings.

It was noted that the views submitted in the preceding item are still applicable on this matter. In this regard,

With the Committee being in agreement,

**COMMITTEE RECOMMENDS:**

That authority be granted to the Head: Parks, Recreation and Culture to dispose the following 1229 assets in the Libraries and Heritage Department that are damaged or no longer usable but are not recorded on the JDE System, whereby a normal disposal process may not be followed:

	Number	Estimated Original Cost	No. of Sites / Libraries	Year of Purchase Range
Electronics	442	R614 242.00	49	1985-2016
Furniture	787	R323 490.00	46	1982-2018
<b>TOTAL</b>	<b>1229</b>	<b>R937 732.00</b>	<b>95</b>	

**Financial Implications:**

None.

**Commenting on the matter, the DA whilst in support of the report recommended that the Municipality should encourage and participate in recycling projects and reuse Municipal assets still considered to be in good condition. It being also emphasised that provisions be made for the Municipality to donate unused equipment to Non-Government or Non-Profit organisations and any other needy establishments.**

**Also, commenting on the matter, the IFP noted with concern that 1229 damaged assets are no longer usable but, also not recorded on the JDE System. That the statement citing that normal disposal process may not be followed opens the opportunity for unknown disposal process to be utilised. The suggestion of donating unused equipment to needy establishments was also supported.**

**Thereafter, the ANC supported the recommendations, citing that other disposal mechanisms have already been raised by the Chairperson of the Executive Committee and are to be investigated accordingly.**

**Thereafter, the above Executive Committee were unanimously; **ADOPTED.****

- 1.4 Request for Approval to Participate in the eThekweni Games and KwaZulu-Natal Department of Sports and Culture SALGA Games for 2023/2024, 2024/2025 and 2025/2026 Financial Years (33/2):  
(Page L82: Community Services Committee - Agenda 2023-06-15)

The Committee received the report requesting for the participation in the eThekweni Games and the KwaZulu Natal Department of Sports and Culture SALGA Games for the three financial years (2023/2024, 2023/2025 and 2025/2026). eThekweni Games are implemented at a Ward level and include various sport codes. These games also serve as a selection process for participating at the SALGA Games and further provides a fair opportunity for amateur athletes to showcase their talents and get an opportunity to be identified by professional sporting bodies. The games over the years have managed to bring together communities from the different Wards and promote social cohesion.

During consideration at the Executive Committee level, the DA made reference to discussions held during the approval of this item in the previous financial year and which surrounded financial implications and the sporting codes. As such, a close out report was requested to establish the overall outcome and financial expenditure associated with the previous financial year games to then inform decisions relevant to the games to be undertaken during the current financial year.

In the absence of the close-out report, the DA abstained on the matter at this stage. With the other Parties being in support,

The DA abstained on the matter, with other Political Parties being in support,

**COMMITTEE RECOMMENDS:**

- 1.4.1 That authority be granted to the Office of the Deputy City Manager: Community and Emergency Services Cluster to implement the eThekweni Games in the 2023/2024, 2024/2025 and 2025/2026 financial years.
- 1.4.2 That subject to the approval of .1 above, authority be granted to the Office of the Deputy City Manager: Community and Emergency Services Cluster to facilitate the eThekweni Team's participation in the annual KwaZulu-Natal Department of Sports, Arts and Culture (KZND SAC) SALGA Games for the next three financial years (2023/2024, 2024/2025 and 2025/2026) as depicted in the table below.
- 1.4.3 That subject to the approval of .1 and .2 above, authority be granted to the Office of the Deputy City Manager: Community and Emergency Services Cluster to procure goods and services following the Supply Chain Management Policy and processes.
- 1.4.4 That subject to the approval of .1, .2 and .3 above, authority be granted for the transfer of management and coordination of the KwaZulu-Natal SALGA Games Programme, as well as the funding thereof, to the Office of the Deputy City Manager: Community and Emergency Services Cluster.
- 1.4.5 That the close-out reports on both eThekweni Games and KZND SAC SALGA Games for each approved financial year be submitted.

**Financial Implications:**

The estimated financial implications for the three-year financial years are as per table below:

Item	Draft Budget 2023/2024	Draft Budget 2024/2025	Draft Budget 2025/2026
EtheKwini Games Grand Finale	R1 555 820.00	R1 496 280.00	R1 603 920.00
Accommodation	R2 300 000.00	R2 300 000.00	R2 300 000.00
Apparel	R1 800 000.00	R1 800 000.00	R1 900 000.00
Affiliation Fees	R80 000.00	R90 000.00	R100 000.00
Catering Lunch Packs	R280 000.00	R280 000.00	R290 000.00
Transport	R600 000.00	R600 000.00	R660 000.00
Team Preparations	R360 000.00	R360 000.00	R400 000.00
Insurance & Medical Supplies	R35 000.00	R30 000.00	R40 000.00
Training Equipment & Playing Kits	R65 000.00	R50 000.00	R50 000.00
Hospitality Infrastructure	R55 000.00	R54 610.10	R70 000.00
<b>Overall Total</b>	<b>R7 130 820.00</b>	<b>R7 060 890.00</b>	<b>R7 413 920.00</b>

Vote Number: 15009.VARIOUS Provided Draft Budgets 2023/2024, 2024/2025 and 2025/2026.  
FC Number: 32/292

Commenting on the matter, the DA supported the recommendations, and acknowledged the relocation of the Programme to the Office of the Deputy City Manager: Community and Emergency Services. It was then anticipated that a close-out report on the eThekweni Games and the KwaZulu-Natal Department of Sports and Culture SALGA Games for 2023/2024 will be submitted timeously to the Support Committee.

The EFF also welcomed the report and further proposed that other sporting codes be considered in the future, reference being made to snooker table game.

Also, in support of the recommendations, the ANC encouraged all Councillors to be visible to support games and participants during selections from the Ward level up until the selected teams to represent the Municipality depart for the KwaZulu-Natal Department of Sports and Culture SALGA Games. Emphasis being made that the games play a major role in youth development as well as assisting to protect youth from reckless behaviours.

Accordingly, the above recommendations of the Executive Committee were, **ADOPTED.**

## 2. REPORT OF THE HUMAN SETTLEMENTS AND INFRASTRUCTURE COMMITTEE: MEETING HELD 2023-06-23

(Page R6)

### 2.1 Request for Approval to Reallocate Capital Projects Funds in Electricity Unit (7/1/2/2):

(Page 47: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

Authority is sought to reallocate funds in the amount of R52 503 084.00 (Fifty-Two Million Five Hundred and Three Thousand Eighty-Four Rand) as savings have been identified in the approved capital budget for the Electricity Unit for the 2022/2023 financial year. It has been identified that expenditure on certain capital projects may

not reach its planned spend within this financial year due to various project delays. Certain critical projects have also been identified where additional funds are required to be able to fully execute these projects. To ensure the efficient and prudent capital expenditure for the Unit, the reallocation of funds to other projects is necessary.

The Unit has identified a total of twenty-eight projects which are delayed and are unable to meet its planned annual expenditure. This results in savings of an amount of R52,503,084.00. The projects involved, include delayed projects, projects that are ahead of schedule as well as projects that require further funding and can continue subject to availability of funds. These projects have completed the SCM processes and therefore have an ability to spend. There are fifteen projects that are ready for execution that have been identified. The expenditure for these identified projects amounts to R52,503,084.00 as listed in the Annexure “A” of the report by the Head: Electricity dated 2023-05-16.

**MOTIVATION:**

Some of the projects as found in the Annexures for which additional funding is required, SCM statuses and motivations can be found below:

- *CM002Z1A – Service Connection-Conventional Meters – Additional R1090.389.00 requested*  
This project is associated with the provision of conventional service connections to formalised areas. The increased budget allowance for this project shall allow for the Unit to meet its service delivery KPI's relating to number of new residential connections being undertaken within the financial year as this project was initially under budgeted for in the approved budget for the 22\_23 financial year. This project requires internal resources and stock items to allow for project completion. External resources are utilised as and when required. Contract E.9736A and E.9736B is the main contract associated with the additional resources that maybe required however an alternative contract E.9550A can also be utilised to undertake the work required. Contract E.9736A is currently supported at BAC and E.9736B is currently awaiting tabling at BAC. Contract E.9550A is awarded.
- *PC0010 – Computer Equipment – Additional R3,000,000.00 requested*  
The Electricity Unit has just completed the Microsoft Migration project which has produced some challenges for ICT. Some of the existing workstations were incompatible with the subsequent Windows upgrades required and therefore had to be updated to a lower-level requirement which could have potential virus risks and therefore pose a threat to the network. Approximately 200 workstations are required to replace existing machines that are not feasible to upgrade. The workstations can be purchased via an existing awarded contract to ensure expenditure.
- *PC64100 – Licenses (Intangible Assets) – Additional R24,400,000.00 requested*  
The ICT branch requires funds for Oracles software licenses, this dire need comes after the business has not paid for software support for the past three-four years. The cost associated with the reinstatement of the existing licenses has not been deemed feasible and a decision has been made between the OEM and eThekweni to procure completely new licenses and scrap the old ones. The Oracle software is responsible for hosting our Enterprise Asset management system known as Hitachi Energy Ellipse system.



There are also additional funds required by various other projects within the Unit that can spend. A total of R24,012,695.00 is further required for these projects that were under initially budgeted for as identified funding requirements under Annexure “A” of the report by the Head: Electricity.

**Financial Implications:**

The project funding will be reprioritised from existing funded projects that are delayed to other projects with a **zero increase** in the overall bottom line of the 2022/2023 Medium Term Revenue & Expenditure Framework (MTREF) budget.

Clarity was provided at the Executive Committee level that the item related to the activation of the Ellipse system licences for use by the Electricity Unity on the Oracle system platform. That the issue of software licences attracts attention of the Auditor-General, hence, the importance to achieve the necessary compliance to activate such and ensure alignment with the number of software users.

With the Committee being agreement,

**COMMITTEE RECOMMENDS:**

- 2.1.1 That authority be granted to reallocate and transfer funds in the amount of R52 503 084.00 (Fifty-Two Million Five Hundred and Three Thousand Eighty-Four Rand) as savings identified in the approved capital budget for the Electricity Unit for the 2022/2023 financial year as detailed in the report by the Head: Electricity dated 2023-05-16.
- 2.1.2 That authority be granted to the Deputy City Manager: Finance to include in the adjustment budget report, the transfer of funds from the projects where savings have been identified to the list of projects where funding is required.

FC No.: 361/CA0265

**Commenting on the matter, the ActionSA cited poor planning and underspending on projects to be the source of negative effect on service delivery. That this oversight be avoided in future and also implement consequence management for the Units involved to be held accountable.**

**Also commenting on the matter, the IFP reported that in the beginning of 2023; one of the Electricity Unit offices suffered humiliation when creditors invaded their office thereby halting operations, also threatening to attach Municipal assets to off-set debt. The IFP also referred to outstanding written report on the status of operations in the Electricity Unity to enable effective oversight by the Council members. The delays in the installation of three thousand five hundred (3 500) electricity meters for indigent customers was considered concerning. The IFP requested the Electricity Unit Management to strengthen capacity and leadership capabilities thereby successfully implement core functions of the Unit.**

**Speaking on prepared meters, the ANC confirmed that these have since been made available to the Unit. The delays in executing some of the projects were acknowledged, but with the Unit being commended for ensuring that funds available are directed to critical projects.**

**Thereafter, the above Executive Committee were; ADOPTED.**

- 2.2 Expropriation for 11KV Overhead Line Supplying Pole Transformer S18462 (17/2/1/1/4) & (27/2/1/3/1):  
(Page 54: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

The Head : Electricity advised that the report was to seek authority for the Head: Real Estate to acquire/expropriate the proposed property described as Erf 1109 Mpumalanga H. The reason was that the property does not have a registered servitude for the existing medium voltage overhead line from Pole Transformer S18459 to Pole Transformer S18462. The acquisition would ensure that the Municipality has unrestricted access to the property for inspections, maintenance, and breakdown. In addition, would grant Council legal authority to install, maintain and operate an 11KV overhead line to numerous homes within the Mpumalanga H area.

With the Committee being in agreement,

**COMMITTEE RECOMMENDS:**

- 2.2.1 That authority be granted to the Head: Real Estate to acquire/expropriate the proposed property described as Erf 1109 Mpumalanga H indicated below:

Description	Owner	Extent (sqm)
Erf 1109 Mpumalanga H	Power of God Assemblies	389

- 2.2.2 That subject to adoption of .1 above, the Head: Real Estate be authorized to deviate from the Supply Chain Management Regulations and negotiate the for the acquisition of the Municipality's requirements, utilizing Regulation 36(1)(a)(ii) and 36(12)(a) of the Supply Chain Management Regulation.
- 2.2.3 That subject to adoption of .1 above and the approval of the Bid Adjudication Committee pursuant to successful negotiations, the Head: Real Estate be authorized to sign the relevant agreements and all documents necessary to effect transfer of the Municipality's requirements.
- 2.2.4 That the City Manager records the reasons for any deviations and reports it to the next meeting of Council and includes it as a note to the annual financial statements in terms of Section (36)(2) of the Supply Chain Management Regulations.
- 2.2.5 That in the event of negotiations being unsuccessful the Head: Real Estate be authorized to expropriate the Municipality's requirements and sign all documents necessary to effect transfer of the of the Municipality's requirements.
- 2.2.6 That subject to the adoption of .1 to .4 above pursuant to successful negotiations, the Head: Real Estate be authorized to sign the relevant agreements and all documents necessary to effect transfer of the Municipality's requirements.

**Vote No: 3750.43140.51080. 0000.DL434.0010**

**ADOPTED.**

- 2.3 Reprioritisation of 2022/2023 Operations Budget for Certain Line Items Within eThekweni Transport Authority (7/1/3/2) & (26/3/1/2):  
(Page 65: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

The Head: eThekweni Transport Authority in providing reasons for reprioritization, advised that the estimated budgetary provision exceeded in this instance and that the actual cost for the second item was less than the provisions. The variance was as a result of updated estimates for direct and indirect cost for bus operations were less than the initial estimates which were forecasted in anticipation of the commencement of the bus operations.

At the Executive Committee level, an enquiry was made on the additional funding required. Clarity was given that funding for Municipal bus operators particularly People Mover and Durban Transport was inadequate taking into consideration the ongoing fuel price increase.

The DA abstained on the matter. With other Political Parties being in support,

**COMMITTEE RECOMMENDS:**

That authority be granted for the reprioritization of eThekweni Transport Authority operational budget in the 2022/2023 financial year as per the financial implications indicated below:

Funds to be reprioritized:

<b>Operations budget description</b>	<b>Original approved Budgetary Provision</b>	<b>Additional Budgetary Provision Requested</b>
Durban Transport Management Fees	R247 009 000.00	R55 871 500.00
People Mover Management Fees	R51 600 000.00	R2 283 900.00

Savings identified:

<b>Operations Budget Description</b>	<b>Original Approved Budgetary Provision</b>	<b>Additional Budgetary Provision Requested</b>
Go Durban Project Council fund	R55 871 500.00	R0
Strategic Transport Planning, Research and Advisory	R2 283 800.00	R0

**Speaking on the matter, the DA expressed concern over what they viewed as the Municipality's inability to manage the Go Durban project, citing that the project has not been operational since its completion in year 2016. That huge funds are spent to secure security services to safeguard the Municipal infrastructure. The Council's attention was drawn to huge investment contributed in this project and potential threat to lose grant funding from National Treasury in the event of further delays to implement the project. In noting that the Municipality is funding taxi operators in the form of the Moja Cruise Programmes, mention was made that this was not core mandate of the Municipality.**

**Commenting on the matter, the ANC commended the Unit for spending its allocated budget and reiterated that the estimated budgetary provision was exceeded in this instance, with the actual cost of items being less than the**

**provisions made. Therefore, savings have been identified for this purpose within the eThekweni Transport Authority operational budget.**

**As some members were not in support of the recommendations, the matter was put to the vote. With 176 Councillors present, 125 Councillors (ANC - 83, EFF – 16; IFP- 14, Action SA -02, ABC – 02; ACDP – 01; DLC – 01; ADEC – 00; APF – 01; AIC- 01; ATM - 00; ALJAMAH – 00; JEP -00; KZNI – 01, MOSA- 01, NFP - 00; PFP – 00, PRM – 01 and TA- 00) voted in favour of the recommendations and 47 Councillors (DA- 46 and VF Plus – 01) voted against the matter. 04 Councillors (ACC - 02, MF – 01 and UIM – 01) abstained on the matter.**

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

- 2.4 Request for Authority to Approve and Sign the Memorandum of Agreement Between South African National Roads Agency Limited and eThekweni Municipality for Road Improvements on Municipal Roads (25/4/6/1):  
(Page 67: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

Authority is sought for approval the Memorandum of Agreement (MOA) between the South African National Roads Agency Limited (SANRAL) and eThekweni Municipality to implement roads improvement on municipal roads by SANRAL in accordance with the Municipality's specifications and approved design. SANRAL will be liable for any expenditure incurred with respect to the design, execution, completion of the Municipal Road Upgrades and maintenance thereof during the Defects Liability Period and the stakeholder management for these works will be the responsibility of SANRAL. The Municipality will participate in setting up Project Liaison Committee (PLC) and be available as and when called upon by SANRAL to assist in resolving stakeholder related issues.

With the Committee being in agreement,

**COMMITTEE RECOMMENDS:**

- 2.4.1 That authority be granted to the City Manager to enter into a Memorandum of Agreement between the South African National Roads Agency Limited and the eThekweni Municipality to implement road improvement measures on municipal roads at no cost to eThekweni Municipality.
- 2.4.2 That it be noted that SANRAL commits to the following that:
- 2.4.2.1 The Municipal Road Upgrades will be constructed in accordance with the Municipality's Specification and Approved Design
- 2.4.2.2 The SANRAL will be liable for any expenditure incurred with respect to the design, execution, completion of the Municipal Road Upgrade and the maintenance thereof during the Defects Liability Period.
- 2.4.2.3 Stakeholder management for this work will be responsibility for SANRAL.
- 2.4.3 That eThekweni Municipality will participate in setting up the Project Liaison Committee (PLC) and be available as and when called upon by SANRAL to assist in resolving stakeholder relates issues.

**Council in taking a unanimous decision to enter into a Memorandum of Agreement with the South African National Roads Agency, also encouraged all Councillors to participate in Project Liaison Committee structures to be called upon by the SANRAL in this regard.**

**Accordingly, the above recommendations of the Executive Committee were; ADOPTED.**

## 2.5

Request for Budget Reprioritisation for Engineering Unit's Roads Provision Department for 2022/2023 Financial Year (25/1/3/R):

(Page 80: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

Authority is sought for approval for budget reprioritization within the Engineering Unit – Roads Provision Department in the amount of R2 000 000.00 (Two Million Rand) identified as savings in the 2022/2023 financial year. The Roads Provision Department has identified savings in its capital budget which can be reprioritized to address flood damaged infrastructure. The savings offered on the capital budget are as a result of projects being completed below the budget provision where the budget provision exceeded the tender value.

In light of the above, the Department has identified saving of R2 000 000.00 in the 2022/2023 financial year which is itemized in table below:

Project No.	Ward	Road Name	Budgeted Amount	Actual Budget Required	Savings
P13191	55	Mabuye Road	R5 150 000	R4 650 000	R500 000
P13195	108	Mkhoma Road	R5 500 000	R5 000 000	R500 000
P14713A	10	Ukosi Road	R688 000	R0	R688 000
P14467B	35	Tetford Circle	R1 050 000	R738 000	R312 000

It was reported that due to the vast extent of flood damage on Untingonono Grove, Ntuzuma in Ward 43, the original budget was insufficient to complete the work which entailed significant work to reinstate sewer infrastructure. A total of R5 100 000.00 (Five Million One Hundred Rand) was provided for this project to upgrade the culvert and provide embarkment protection in the form gabions along the river to protect neighboring community. A further R2 000 000.00 (Two Million Rand) is now required on the project to complete the culvert upgrade, asphalt the road, and provide sidewalks and guardrails.

With the Committee being in agreement,

### COMMITTEE RECOMMENDS:

#### 2.5.1

That authority be granted for the reprioritization and transfer of funds in the amount of R2 000 000.00 (Two Million Rand) identified as savings within the Engineering Unit: Roads Provision Department for the 2022/2023 financial year to be utilized on the project, Untingonono Grove Project No.: (P14593) to complete the culvert upgrade, asphalt the road, and provide sidewalks and guardrails, Ntuzuma in Ward 43 as indicated in the table below:

Project No	Road name	Savings
P 13191	Mabuye Road	R500 000

Project No	Road name	Savings
P13195	Mkhoma Road	R500 000
P14713A	Ukosi Road	R688 000
P14467B	Tetford Circle	R312 000
<b>Total</b>		<b>R2 000 000</b>

2.5.2

That due to the urgency of attending to the flood damage projects and a contractor already being appointed, the reallocation of budget be implemented immediately to allow for expedient flood damage relief.

**Commenting on the matter, the IFP supported the recommendations, however, expressed concern that budgets allocated for road infrastructure has not been utilised. Meanwhile, the APF applauded the manner in which the Chairperson of the Human Settlements and Infrastructure tackles service delivery issues citing that this will lead to positive results during project implementation.**

**Thereafter, the ANC supported the item and reiterated that the Roads Provision Department has identified savings in its capital budget which can be reprioritized to address floods damaged infrastructure. That the savings in the capital budget are as a result of projects being completed below the budget provision where the initial budget provision ended up exceeded the actual tender value.**

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

2.6

Request for Authority to Transfer Funds from Savings Identified in Sanitation Operating Budgets to Fund the Project Management Budget in the 2022/2023 Financial Year (WS 2023/075) (7/1/3/2):

(Page 94: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

Authority is sought for approval to transfer funds in the amount of R260 000.00 (Two Hundred and Sixty Thousand Rand) as savings identified within the Sanitation Operating Budgets for the 2022/2023 from the Sewerage Services to Sanitation Operations - Project Management budget.

During discussion on this matter, it was noted that Members were in support of the recommendations as contained in the report by the Head : Water and Sanitation dated 2023-04-24. However, it was requested that a presentation on the Water Turn Around Strategy be conducted to the next meeting of the Human Settlements and Infrastructure Committee. In addition, the Committee requested a workshop on this matter as well.

With the Committee being in agreement,

#### COMMITTEE RECOMMENDS:

2.6.1

That approval be granted for the transfer of fund in the amount of R260 000.00 (Two Hundred and Sixty Rand) as savings identified within the Sanitation Operating Budgets for the 2022/2023 from the Sewerage Services to Sanitation Operations - Project Management budget as indicated below:

Item	Description	Budget transfer
Savings identified		
Business Unit		
63050.10845	Sewerage Services	R260 000.00
Funds transferred to		
Business Unit		
64000.10970	Project Management	R260 000.00

- 2.6.2 That authority be granted to the Head : Water and Sanitation to conduct a presentation on Water Turn Around Strategy to the next meeting of the Human Settlements and Infrastructure Committee and that a workshop on this matter be facilitated.

FC No.: 22/365/28

**ADOPTED.**

- 2.7 Proposed Granting of Rights to Use, Control or Manage a Portion of the Remainder of Erf 10054 Durban, 15 Bay Terrace in Extent 1213 Square Metres as Depicted on Hand Plan SJ 4790/5 by Way of Long Term-Term Lease (17/2/1/2/3):  
(Page 192: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

At the Executive Committee level, the DA abstained on the matter and with other Political Parties being in support,

COMMITTEE RECOMMENDS:

- 2.7.1 That the Municipal Council declares in terms of Section 14 of the Local Government Municipal Finance Management Act No 56 of 2003 that:
- 2.7.1.1 The Proposed Portion of the Remainder of Erf 10054 Durban in extent 1213 square meters as depicted on hand plan SJ 4790/5 is not needed to provide the minimum level of basic municipal services and proposed long term lease over a Portion of the Remainder of Erf 10054 Durban is considered to be surplus to the requirements of the Municipality for the period that the proposed granting of rights to use control or manage the said property.
- 2.7.1.2 That the current market value of a Portion of the Remainder of Erf 10054 Durban as depicted on hand plan SJ 4750/5 in extent of 1213 square metres is R3 000 000.00 (Three Million Rand), at an assessed market rental of R240 000.00 (Two Hundred and Forty Thousand Rand) per annum and R20 000.00 (Twenty Thousand Rand) per month has been considered and is inclusive of VAT.
- 2.7.1.3 That the Municipal Council approves that a right be granted to use, control or manage the capital asset described as a Portion of the Remainder of Erf 10054 Durban in extent 1213 square meters as depicted on hand plan SJ 4790/5 in terms of Regulation 34(1)(b) read together with Regulation 36 and 41 of the Municipal Asset Transfer Regulations, 2008. It being recorded that after the proposed lease period has lapsed, control of the property will revert to the Municipality.
- 2.7.1.4 A Thirty -year lease be granted in respect of the capital asset.

- 2.7.1.5 All conditions received from the Municipality's service delivery units as detailed in paragraph 5 of the report will form part of the lease agreement to be concluded between the Municipality and the successful tenderer.
- 2.7.1.6 That the property described as Portion of the Remainder of Erf 10054 Durban in extent of 1213 square meters as depicted on Hand Plan No.: SJ 4790/9, be leased in accordance with the Municipal Supply Chain Management Policy, at a base rental of R20 000.00 (Twenty Thousand Rand) per month exclusive of VAT, escalating by 7% and reviewable by 5 years for a period of thirty (30) years.
- 2.7.1.7 That the rental may be suspended for the development period stipulated on the bidders proposal or until the Practical Completion Certificate is issued (whichever comes first) from the date of registration of the lease to allow for the development of the property provided that the capital investment amount is above R15 000 000.00 (Fifteen Million Rand). Should the developer not complete the development within the two-year period, an application can be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 2.7.2 That subject to the adoption of .1 to .1.7 above, authority be granted to the Head : Real Estate to give effect to the above-mentioned recommendations.

#### **REFERENCE BACK**

**In terms of Rule 20(1)(c) of the Rules of Order Bylaw 2014, as amended, Councillor VG Reddy of ADEC, seconded by Councillor MM Hlengwa of APF, moved as a procedural motion that, "Proposed Granting of Rights to Use, Control or Manage a Portion of the Remainder of Erf 10054 Durban, 15 Bay Terrace in Extent 1213 Square Metres as Depicted on Hand Plan SJ 4790/5 by Way of Long Term-Term Lease"; be referred back to the Committee for a full review of leases and Policy in respect of lease agreements.**

#### **CARRIED**

**Accordingly, the above-mentioned motion to refer the item back was, unanimously, CARRIED.**

- 2.8 Proposed Granting of Rights to Use Control or Manage a Lease on a Proposed Portion of Portion 755 of Erf 1560 of Lot 31 No.1560: 327 Umhlanga Rocks Drive, in Extent 7411m<sup>2</sup> as Depicted on SJ Plan No 4793/2 by Way of Long-Term Lease (17/2/1/2/5):  
(Page 212: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

During the Support Committee, with 26 Councillors present, 21 Councillors (ANC – 14, IFP - 2, EFF - 4 and KZN - 1) voted in support of the recommendations and 5 DA Councillors voted against the recommendations.

At the Executive Committee level, (03) DA Members voted against the recommendations. With (04) ANC Members and (01) EFF Member being in support,

#### **COMMITTEE RECOMMENDS:**

- 2.8.1 That the Municipal Council declares in terms of Section 14 of the Local Government: Municipal Finance Management Act, No 56 of 2003 (MFMA) that:-



- 2.8.1.1 The Proposed Portion described as Portion 755 of Erf 1560 of LOT 31, No 1560, in extent of 741m<sup>2</sup> as depicted on Plan no SJ 4793/2 is not needed to provide the minimum level of basic Municipal services and is considered to be surplus to requirements of the Municipality for the period that the proposed granting of rights to use control or manage the said property.
- 2.8.1.2 The Municipality has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset. The current market value of the property is R19 000 000.00 (Nineteen Million Rand) and an assessed market rental of R1 333 800 (One Million Three Hundred and Three Thousand Eight Hundred Rand) per annum, R111 150.00 (One Hundred and Eleven Thousand One Hundred and Fifty Rand) per month excluding VAT has been considered.
- 2.8.2 That the Municipal Council approves in principle that a right be granted to use control or manage the capital asset as described as a Proposed Portion 755 of Erf 1560 of lot 31 No.1560 in extent of 741m<sup>2</sup> as depicted on SJ plan No SJ 4793/2 in terms of Regulation 34(1)(b) read together with Regulation 36 and 41(1) of the Municipal Asset Transfer Regulations 2008 as follows that:
- 2.8.2.1 A long-term right is proposed to be granted in respect of a Proposed Portion of Portion 755 of Erf 1560 of LOT 31 No 1560.
- 2.8.2.2 The rental be assessed on the open market value.
- 2.8.2.3 All conditions received from the Municipality's Service Delivery Units as detailed in paragraph 5 of the report will form part of the lease agreement to be concluded between the Municipality and the successful tenderer.
- 2.8.2.4 The Proposed Property described as Proposed Portion of Portion 755 of erf 1560 of LOT31, No 1560, in extent 741m<sup>2</sup> be leased by way of public tender in accordance with the Municipal Supply Chain Management Policy at a base rental of (R1 333 800.00) (One Million and Three Hundred and Thirty Three Thousand Hundred Eight Hundred Rand) per annum, R111 150.00 (One Hundred and Eleven Thousand One Hundred and Fifty Rand) per month, excluding VAT escalating by 7% pa and reviewable every 5 years For a period of 45 years.
- 2.8.2.5 All costs incidental to this transaction shall be borne by the lessee and all the developmental plans must be submitted to the Local Authority.
- 2.8.2.6 That the rental be suspended for the developmental period stipulated on the bidders proposal or until the Practical Completion Certificate is issued (whichever comes first) from the date of registration of the lease to allow for the refurbishment/development of the property, provided that the development period or period until the practical completion certificate is issued does not exceed 3 years from the date of registration of the lease and provided further that the capital investment is above R30 000 000.00 (Thirty Million Rand).
- 2.8.2.7 Should the developer not complete the development within a three-year period, an application must be made to the Head : Real Estate to submit a request to the Municipal Council to consider an extension of time, without any further rental suspension to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.

- 2.8.2.8 That subject to the adoption of .1 to .2 above and compliance with the eThekweni Municipality: Supply Chain Management Policy, the Head: Real Estate be authorised to sign all documents necessary to conclude and administer this transaction.

**REFERENCE BACK**

**In terms of Rule of Order Bylaw 20(1)(c), Councillor VG Reddy of ADEC, seconded by Councillor MM Hlengwa of APF, moved as a procedural motion that, “Proposed Granting of Rights to Use Control or Manage a Lease on a Proposed Portion of Portion 755 of Erf 1560 of Lot 31 No.1560: 327 Umhlanga Rocks Drive, in Extent 7411m<sup>2</sup> as Depicted on SJ Plan No 4793/2 by Way of Long-Term Lease”; be referred back to the Committee for a full review of leases and Policy in respect of lease agreements.**

**CARRIED**

**Accordingly, the above-mentioned motion to refer back was, unanimously, CARRIED.**

- 2.9 Proposed Granting of Rights to Use, Control, or Manage a Lease on Erf 395 Savannah Park in Extent 4.6262Ha as Depicted on SJ Plan No. 4751/4 by Way Long Term Lease (17/2/1/2/5):  
(Page 273: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

With 26 Councillors present, 21 Councillors (ANC – 14, IFP - 2, EFF - 4 and KZN - 1) voted in support of the recommendations and 5 DA Councillors voted against the recommendations.

At the Executive Committee level, (03) DA Members voted against the recommendations. With (04) ANC Members and (01) EFF Member being in support,

**COMMITTEE RECOMMENDS:**

- 2.9.1 That the Municipal Council declares in terms of Section 14 of the Local Government Municipal Finance Management Act, No 56 of 2003 that:
- 2.9.1.1 The proposed property described as Position Erf 395 Savannah Park is not needed to provide the minimum level of basic municipal services and that is considered to be surplus to the requirements of the Municipality for the period that the proposed granting of rights to use, control or manage the said property is proposed and,
- 2.9.1.2 That the next Municipality has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset. The current market value of the property is R22 747 500.00 (Twenty-Two Million Seven Hundred and Forty Thousand Five Hundred Rand) at an assessed market rental of R1 364 850 (One Million Three Hundred and Sixty-Four Thousand Eight Hundred and Fifty Rand) or R113 738.00 (One Hundred and Thirteen Thousand Seven Hundred and Thirty-Eight Rand) per month excluding VAT has been considered.
- 2.9.2 That the Council approves in principle, that a right be granted to use, control or manage the capital asset described as Erf 395 Savannah Park in extent of 4.6262 Ha as depicted on Plan 4751/4 in terms of Regulation 34(1)(b) read with Regulation 36 and 41(1) of the Municipal Asset Transfer Regulation 2008 as follows that:

- 2.9.2.1 A long-term right is proposed to be granted in respect of the subject property.
- 2.9.2.2 The rental be assessed on the open market value.
- 2.9.2.3 The proposed property described as Erf 396 Savannah Park in extent 4.6262Ha be lease by way of public tender in accordance with the provisions of the preferential Procurement Policy Framework which supports Radical Economic Transformation Framework, at a base rental of R1 364 850.00 per annum (R113 738 per month) excluding VAT, escalating by 7% per annum and reviewable every 5 years for a period of 45 years.
- 2.9.2.4 All costs incidental to this transaction shall be borne by the lessee and all the developmental plans must be submitted to the Local Authority.
- 2.9.2.5 The rental be suspended for the development period stipulated on the bidders proposal or unit until the Practical Completion Certificate is issued (whichever comes first) from the date of registration of the lease to allow for the refurbishment/development of the property, provided that the development period or period until the practical completion certificate is issued does not exceed 3 years from the date of registration of the lease and provided further that the capital investment is above R30 000 000.00 (Thirty Million Rand).
- 2.9.2.6 Should the Developer not complete the development within a three-year period an application must be made to the Head: Real Estate to submit a request to the Municipal Council to consider an extension of time, without any further rental suspension to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 2.9.2.7 That subject to the adoption of .1 to .2.6 above and compliance with eThekweni Municipality: Supply Chain Management Policy, the Head: Real Estate be authorized to sign all documents necessary to conclude and administer this transaction.

## **REFERENCE BACK**

**In terms of Rule of Order Bylaw 20(1)(c), Councillor VG Reddy of ADEC, seconded by Councillor MM Hlengwa of APF, moved as a procedural motion that, “Proposed Granting of Rights to Use, Control, or Manage a Lease on Erf 395 Savannah Park in Extent 4.6262Ha as Depicted on SJ Plan No. 4751/4 by Way Long Term Lease”; be referred back to the Committee for a full review of leases and Policy in respect of lease agreements.**

## **CARRIED**

**Accordingly, the above-mentioned motion to refer back was, unanimously, CARRIED.**

- 2.10 Proposed Granting of Rights to Use, Control or Manage a Proposed Lease of Erf 517 Mobeni (Situating on Rem of Erf 1 Mobeni) in Extent 6.2553ha as Depicted on SJ 4801/9 by Way of a Long-Term Lease (17/2/1/2/5):  
(Page 336: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

With 26 Councillors present, 21 Councillors (ANC – 14, IFP - 2, EFF- 4 and KZN - 1) voted in support of the recommendations and 5 DA Councillors voted against the recommendations.

At the Executive Committee level, (03) DA Members voted against the recommendations. With (04) ANC Members and (01) EFF Member being in support,

**COMMITTEE RECOMMENDS:**

- 2.10.1 That the Municipal Council declares in terms of Section 14 of the Local Government: Municipal Finance Management Act No 56 2003 (MFMA) that:
  - 2.10.1.1 That the proposed lease of Erf 517 Mobeni (situated on Rem of Erf 1 Mobeni) in extent 6.2553ha as depicted on SJ 4801/9 is not required to provide the minimum level of basic municipal services and is considered to be surplus to the requirements of the Municipality for the period that the proposed granting of the rights to use, control or manage the said property.
  - 2.10.1.2 That the Municipality has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset. The current market value of the property is R103 500.00 (One Hundred and Three Million, Five Hundred Thousand Rand) and an assessed market rental of R9 324 000.00 (Nine Million Three Hundred and Twenty-Four Thousand Rand) per annum or R777 000 (Seven Hundred and Seventy Thousand Rand) per month excluding VAT has been considered.
- 2.10.2 That the Council approves in principle that a right be granted to use, control or manage the capital asset described as Proposed Lease of Erf 517 Mobeni (situated on REM of Erf 1 Mobeni) in extent 6,2553ha as depicted on plan No SJ 4801/9, in terms of Regulation 34(1)(b) read with Regulation 36 and 41(1) of the Municipal Asset Transfer Regulation 2008 that:
  - 2.10.2.1 A long-term right is proposed to be granted in respect of respect of Proposed Lease Erf 517 Mobeni (situated on REM 1 Mobeni).
  - 2.10.2.2 The rental be assessed on the open market.
  - 2.10.2.3 All conditions received from the Municipality's service delivery unit as detailed in paragraph 5 of this report will form part of the lease agreement to be concluded between the Municipality and the successful tenderer.
  - 2.10.2.4 The Proposed Property described as Proposed lease of Erf 517 Mobeni (situated on rem of Erf 1 Mobeni) be leased by way of public tender in accordance with the provisions of the Preferential Policy Framework which supports Radical Economic Transformation Framework at a basic rental of R9 324 000.00 (Nine Million Three Hundred and Twenty Four Thousand Rand) per annum or R777 000.00 (Seven Hundred and Seventy Seven Thousand Rand) per month excluding VAT, escalating by 7% per annum and reviewable every 5 years for a period of 45 years;
  - 2.10.2.5 All costs incidental to the transactions shall be borne by the lessee and all the developmental plans must be submitted to the local authority.

- 2.10.2.6 That the rental be suspended for the development period stipulated on the bidders proposal or until the practical completion certificate is issued (whichever comes first) from date of registration of the notarial deed of lease to allow for the refurbishment/development of the property, provided that the development period or period until the practical completion certificate is issued does not exceed 3 years from the date of registration of the notarial deed of lease and provided further that the capital investment is above R30 000 000.00 (Thirty Million).
- 2.10.2.7 That should the developer not complete the development within a three year period an application must be made to the Head: Real Estate to submit a request to the Municipal Council to consider an extension of time, without any further rental suspension to complete the development in accordance with suitable terms and conditions as recommended by the Head : Real Estate.
- 2.10.3 That subject to the adoption of .1 to .2.7 above and compliance with the eThekweni Municipality: Supply Chain Management Policy, the Head: Real Estate be authorized to sign all document necessary to conclude the required agreement.

### **REFERENCE BACK**

**In terms of Rule of Order Bylaw 20(1)(c), Councillor VG Reddy of ADEC, seconded by Councillor MM Hlengwa of APF, moved as a procedural motion that, “Proposed Granting of Rights to Use, Control or Manage a Proposed Lease of Erf 517 Mobeni (Situated on Rem of Erf 1 Mobeni) in Extent 6.2553ha as Depicted on SJ 4801/9 by Way of a Long-Term Lease”; be referred back to the Committee for a full review of leases and Policy in respect of lease agreements.**

### **CARRIED**

**Accordingly, the above-mentioned motion to refer back was, unanimously, CARRIED.**

- 2.11 Proposed Granting of Rights to Use, Control or Manage a Lease on Erf 10306 Durban as Depicted on SJ Plan 4795/9 by Way of Long-Term Lease (17/2/1/2/5):  
(Page 421: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

At the Executive Committee level, the DA abstained on the matter and with other Political Parties being in support,

### **COMMITTEE RECOMMENDS:**

- 2.11.1 That the Council declares in terms of Section 14 of the Local Government Municipal Finance Management Act No 56 of 2003 (MFMA) that:
- 2.11.1.1 The Proposed Property described as Erf 10306 Durban, in extent 2097m<sup>2</sup> as depicted on Plan No.: SJ No 4795/9, is not needed to provide the minimum level of basic municipal services and is considered to be surplus to the requirements of the Municipality for 30-year period that the proposed granting of rights to use, control or manage the said property; and
- 2.11.1.2 That the Municipality has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset. The current market value of the property is R54 000 000.00 (Fifty-Four Million Rand).

- 2.11.2 That the Municipal Council approves that a right be granted to use, control or manage the capital asset described as Erf 10306 Durban, in extent 2097m<sup>2</sup> as depicted on plan No. SJ4795/9 in terms of Regulation 34(1)(b) read together with Regulation 36 and 41(1) of the Municipal Asset Transfer Regulations 2008 as follows:
- 2.11.2.1 A long-term right is proposed to be granted in respect of a Proposed Portion of Erf 10305 Durban.
- 2.11.2.2 An upset rental of R5 800 000.00 (Five million eight hundred thousand Rand) per annum or R483 333.33 (Four and Eighty-Three Thousand, Three Hundred and Thirty-Three Rand Thirty-Three Cents) per month excluding VAT as assessed by a registered valuer be approved.
- 2.11.2.3 All conditions received from the Municipality's Service Delivery Units as detailed in paragraph 5 of the report will form part of the lease agreement to be concluded between the Municipality and successful tenderer.
- 2.11.2.4 Subject property described as Erf 10306 Durban in extent 2097m<sup>2</sup> as depicted on plan No SJ4795/9, be leased by way of public tender in accordance the Municipal Supply Chain Management policy at a base rental of R5 800 000.00 (Five Million Eight Hundred Thousand Rand) or R483 333.33 per month excluding VAT escalating by 7% per annum and reviewable every 5-year period of 30 years.
- 2.11.2.5 That all costs incidental to this transaction be borne by the lessee and all the developmental plans be submitted to the Land Use Management Unit of the Municipality.
- 2.11.2.6 That the rental may be suspended for the refurbishment/development period stipulated on the bidder's proposal or until the Practical Completion Certificate is issued (whichever comes first) from the date of registration of the lease to allow for the development of the property provided that the capital investments is above R30 000 000.00 (Thirty Million Rand). Should the developer not complete the development within a two-year period an application can be made to full Council to consider an extension to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 2.11.3 That subject to the adoption of .1 to .2.6 above and the approval of the Bid Adjudication Committee, the Head: Real Estate be authorized to sign all documents necessary to conclude and administer this transaction.

#### **REFERENCE BACK**

**In terms of Rule of Order Bylaw 20(1)(c), Councillor VG Reddy of ADEC, seconded by Councillor MM Hlengwa of APF, moved as a procedural motion that, "Proposed Granting of Rights to Use, Control or Manage a Lease on Erf 10306 Durban as Depicted on SJ Plan 4795/9 by Way of Long-Term Lease"; be referred back to the Committee for a full review of leases and Policy in respect of lease agreements.**

#### **CARRIED**

**Accordingly, the above-mentioned motion to refer back was, unanimously, CARRIED**

- 2.12 Request for Authority to Enter into a Memorandum of Understanding (MOU) with Coca Cola Beverage South Africa (CCBSA) and ALPLA Packaging SA (Pty) Ltd (ALPLA) with the Aim of Developing and Designing a Programme to Accelerate the Development of the Circular Economy Within the City (24/8/2/1/2):  
(Page 504: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

Authority is sought for approval to enter into a tripartite Memorandum of Understanding (MoU) between the Coca-Cola Beverages South Africa (CCBSA), Alpha Packaging South Africa (APLA) (PTY) Ltd and eThekweni Municipality aimed to collaborate to implement an enterprise development programme, awareness and education campaigns that will drive the development of a circular economy in the Municipality to deliver on economic, social as well as environmental outcomes. The MoU will serve to enhance cooperation between parties and to put in place a formal mechanism for the exchange of information between parties for the purpose described herein.

The MoU will provide a framework for cooperation between the parties to lay the basis for seeking ways to complement each other's legal mandate and share technical information and expertise. The parties, through their mandates and structures, have shared interest in diverting waste from landfills, thereby:

- Pursuing their respective constitutional and statutory obligations,
- Improving good governance and advocacy in area of waste diversion, and
- Preventing duplication of efforts and resources.

It was indicated that there are no financial implications for the Municipality. Should parties identify projects with financial implications, a separate Service Level Agreement (SLA) will then be entered to. Each party will be responsible for obtaining prior necessary approvals for entering into the SLA.

The proposed tripartite agreement will be subject to the MoU which will be thoroughly assessed by the eThekweni Municipality's Legal Compliance Services Unit.

Accordingly, the Cleansing and Solid Waste Unit, therefore, seeks approval to enter into the tripartite MOU with the Coca-Cola Beverages South Africa and ALPLA with the aim of developing and designing a programme to accelerate the development of the circular economy within the eThekweni Municipality.

With the Committee being in agreement,

**COMMITTEE RECOMMENDS:**

- 2.12.1 That authority be granted to the City Manager to enter into a tripartite Memorandum of Understanding (MoU) between the Coca-Cola Beverages South Africa (CCBSA), Alpha Packaging South Africa (APLA) (PTY) Ltd and the eThekweni Municipality aimed of developing and designing a programme to accelerate the development of the circular economy within the eThekweni Municipality.
- 2.12.2 That subject to the approval of .1 above, authority be granted to the Head: Cleaning and Solid Waste to conclude a tripartite Memorandum of Understanding (MOU) to give effect to the above.

**A submission was made that the Municipality should continue collaborating and entering into Memorandums of Understanding with the private sector and investors to boost local economy and to create much-needed job opportunities.**

**In this regard, the above recommendations of the Executive Committee were; unanimously; **ADOPTED.****

2.13

Request for Authority to Redesign the Separation at Source Orange Bags Recycling Programme (24/8/5/R):

(Page 507: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

The Committee received the report for approval to reconfigure the Separation at Source Programme, commonly known as the Orange Bag Recycling Programme. The separation at source programme supports the Unit's vision that is aligned to the Integrated Waste Management Plan of seeing waste as a valuable resource. It is further aligned to the Integrated Development and Plan as well as the Waste Management Strategy that are legislative requirements. In compliance with government mandates the city first introduced its separation at source Programme commonly known as the Orange Bag Programme in 2007 as a pilot that was targeted at servicing specific suburbs in the city. At its early stages, the programme achieved its desired outcomes.

One of the key success factors was the direct access to the market for recyclables through Mondi/Mpact. The Municipality had an agreement with Mondi/Mpact to buy the recyclables from the collectors on the programme. In time the city expanded the programme into other geographic areas in the city without reviewing the pilot to allow itself to consider factors which made it successful.

In 2017 the programme ran into difficulty when the Mondi/Mpact plant abruptly closed due to flooding. Following the closure of the Mondi/Mpact plant the agreement that was in place could no longer be effected. The closure of the plant negatively impacted the efficient operation of the programme as collectors had to find alternative markets for their recyclables. Second, the rates of recyclables were no longer guaranteed. Third, collectors assumed the cost of sorting the recyclables.

The increasing operational and running costs for collectors in relation to the market value of waste collected impacted the efficacy of the programme.

The contribution of the municipality in respect of this programme included the supply of the orange bags to the collectors, and the operating premises.

**Benefits of the programme:**

- **Behavioural changes** - the Orange Bag Programme introduced recycling at large scale to the residents of eThekweni including the education on its benefits to the environment and opportunities to build a resource economy. In the period of its existence the programme has instilled a culture of recycling in parts of the city. As a result, the Orange Bag Programme was the building blocks in the recycling strategy of the city to promote action in separating clean recyclables for diversion and beneficiation. The behavioural change of perceiving waste as a valuable resource is seen as a fundamental requirement to any waste management strategy. Evidence of Cities with successful waste diversion programmes shows that behavioural changes take extended periods of time to entrench, for an example in Europe and the United Kingdom these programmes



have managed to promote awareness and drive participation by residents. Thus, the motivation to reconfigure this programme instead of discontinuing it.

- **Waste diversion** - eThekweni currently reports 18.4% diversion of waste from landfills (kerbside, by-back centres, and garden sites). This is a clear indication of the programme benefits notwithstanding the challenges that it faces. Waste diversion is a legislative mandate given effect by the Waste Management Act of 2018.

It mandates municipalities to divert 40% of their waste in 5 years. Thus, the current levels of diversion serve foundation to build on. The city should use the lessons learnt from this programme to upscale its household recycling initiatives.

- **Circular economy** - the programme has served as a catalyst for the education and participation of the previously disadvantaged in the circular economy. The current model as allowed for upliftment through job creation and social capital.
- **Emissions Reduction Plan:**  
The separation at source and diversion has aligned to the Unit's reduction emission plan with the focus on climate change action by utilising waste as a resource instead of natural resources.

In accordance with the National Waste Management Strategy 2020, effective and sustainable waste management remains a priority for government. Taking all the above into account and to provide the citizens of eThekweni with a reliable and effective recycling programme. The CSW Unit seeks the Council approval for the reconfiguration of the current recycling programme so that it can be founded on best practices and lessons learnt from current programme as well as proper legislative and governance frameworks.

With 25 Councillors present, 20 Councillors (ANC – 14, IFP - 2, EFF - 4 and KZN - 1) voted in support of the recommendations and 5 DA Councillors voted against the recommendations.

At the Executive Committee level, the DA abstained on the matter and with other Political Parties being in support,

#### COMMITTEE RECOMMENDS:

- 2.13.1 That in noting that the Cleansing and Solid Waste Unit has a legal obligation to divert and separate waste at source as stated in the National Environmental Management: Waste Act 59 of 2008 and given effect by the National Waste Management Strategy of 2020:
- 2.13.1.1 That authority be granted to the Acting Head : Cleansing and Solid Waste to reconfigure and relaunched the separation at source Orange Bags Recycling programme so that the Municipality can be derive the desired benefits and value for money from the programme in accordance with the National Waste Management Strategy 2020, effective and sustainable waste management remains a priority for government and taking all into account to provide the citizens of eThekweni with a reliable and effective recycling programme.

- 2.13.1.2 That permission be granted to reconfigure the Orange Bags Recycling programme by spatially targeting geographic catchments that are sustainable.
- 2.13.2 That the Acting Head: Cleansing and Solid Waste be requested to report back to Council a reconfigured Separation at Source Programme.

**Speaking on the matter, the DA appreciated interventions to revive the orange bag recycling programme. The challenges encountered in implementing this Programme in the past were cited, including alleged maladministration and the service providers ceasing operations due to non-payment by the Municipality and adverse conditions in landfill sites. In welcoming Programme resuscitation, the Municipality was encouraged to keep the residents posted in the event shortcomings are experienced with this Programme**

**Also joining the discussion, the IFP supported the recommendations and anticipating efficient and appropriate management of the programme this time. In sharing similar sentiments, the ANC noted the Programme will assist to fulfil key service delivery mandate.**

**In this regard, the above recommendations of the Executive Committee were unanimously; **ADOPTED.****

*At this stage of the proceedings, time being 17h39, Council took a comfort break and the meeting later resumed at 18h01.*

- 2.14 Request Authority to Unbundle Blocksum Vote Y9200 and Y9400 to Ward Based Projects for the Refurbishment of Communal Ablution Blocks Done Under CIP Project for the Provision of Water and Sanitation Services to Human Settlements Within eThekweni Region (23/2/2):  
(Page 512: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

Authority is sought for approval for the unbundling of the Community Infrastructure Project/ Zonal Blocksum EWS allocation of funds to different votes. The Water and Sanitation Unit of eThekweni Municipality has numerous challenges in the provision of water and sanitation services to informal settlements. Communal ablution blocks (CABS) are currently being utilized for the provision of water and sanitation services to informal settlements. This type of service has been plagued with frequent vandalism and abuse and has resulted in the need for the refurbishment of these facilities to service the ever-growing number of informal settlements within eThekweni Municipality. As a result of the above CIP was initiated to provide water and sanitation to informal settlements and schools and refurbishment of CABS formed part of the project to ensure continued provision of water and sanitation services to informal settlements.

The Community Infrastructure Projects (CIP) Blocksum vote is located within the Office of the City Manager and for implementation purposes it is located within the office of the Deputy City Manager (Human Settlement, Engineering and Transport Authority) cluster for progressive fast tracking and implementation. Due to transversal and infrastructural nature of the works, departmental CIP champions and line accountants have been identified to facilitate implementation and monitor expenditure in each department. The CIP core team is providing support to the programme as necessary. There is a dedicated programme manager to facilitate the day-to-day management of the CIP initiative who is a project executive currently based at the office of the DCM: HSET. The CIP is intended for CAPEX related types of works and

is based on councillors approved request within the allocated budget per ward. The CIP programme has a potential of executing small projects swiftly that create visibility in communities for both City and Political alignment.

One of the objectives of the municipality is to ensure the provision of service to the community in a sustainable manner. In this financial year 2022/2023 the initial budget allocation is now reduced to R1 000 000.00 (One Million Rand) per ward for all 111 Wards throughout the city and the total allocation of the CIP being R111 000 000.00 (One Hundred and Eleven Million Rand) of which R8 000 000.00 (Eight Million Rand) is allocated to EWS for refurbishment of ablution facilities.

Unbundle Vote Y9200 as per the table below:

Vote No.:	Ward	Description	Amount
Y9200	22	REHABILITATION OF CAB'S	R850 000.00
Y9201	26	REHABILITATION OF CAB'S	R558 509.00
Y9204	32	REHABILITATION OF CAB'S	R6335720.00
Y9205	42	REHABILITATION OF CAB'S	R812 201.00
Y9206	43	REHABILITATION OF CAB'S	R807 981.00
Y9207	46	REHABILITATION OF CAB'S	R827 719.00
Y9208	56	REHABILITATION OF CAB'S	R756 978.00
Y9211	05	REHABILITATION OF CAB'S	R1 903 951.00
Y9216	107	REHABILITATION OF CAB'S	R846 941.00
<b>TOTAL</b>			<b>R8 000 000.00</b>

Unbundle Vote Y9400 as per the table below:

Vote No.:	Ward	Description	Amount
Y9230	53	REHABILITATION OF CAB'S	R958 507.83
Y9231	54	REHABILITATION OF CAB'S	R1 116 428.78
Y9233	58	REHABILITATION OF CAB'S	R833 811.83
Y9234	59	REHABILITATION OF CAB'S	R1 515 104.64
Y9235	60	REHABILITATION OF CAB'S	R568 611.12
Y9200		REHABILITATION OF CAB'S	R7 535.80
			<b>R5 000 000.00</b>

At Support Committee, with 26 Councillors present, 21 Councillors (ANC – 14, IFP - 2, EFF - 4 and KZN - 1) voted in support of the recommendations and 5 DA Councillors voted against the recommendations.

At the Executive Committee level, the DA abstained on the matter and with the other Political Parties being in support,

#### COMMITTEE RECOMMENDS:

That authority be granted for the unbundle blocksum Vote Y9200 and Y9400 to based projects for the refurbishment of communal ablution block done under CIP project for provision of water and sanitation services to Human Settlements within eThekweni Municipality

#### Financial Implications:

Unbundle Vote Y9200 as per the table below:

Vote No.:	Ward	Description	Amount
Y9200	22	REHABILITATION OF CAB'S	R850 000.00
Y9201	26	REHABILITATION OF CAB'S	R558 509.00

Y9204	32	REHABILITATION OF CAB'S	R6335720.00
Y9205	42	REHABILITATION OF CAB'S	R812 201.00
Y9206	43	REHABILITATION OF CAB'S	R807 981.00
Y9207	46	REHABILITATION OF CAB'S	R827 719.00
Y9208	56	REHABILITATION OF CAB'S	R756 978.00
Y9211	05	REHABILITATION OF CAB'S	R1 903 951.00
Y9216	107	REHABILITATION OF CAB'S	R846 941.00
<b>TOTAL</b>			<b>R8 000 000.00</b>

Unbundle Vote Y9400 as per the table below:

<b>Vote No.:</b>	<b>Ward</b>	<b>Description</b>	<b>Amount</b>
Y9230	53	REHABILITATION OF CAB'S	R958 507.83
Y9231	54	REHABILITATION OF CAB'S	R1 116 428.78
Y9233	58	REHABILITATION OF CAB'S	R833 811.83
Y9234	59	REHABILITATION OF CAB'S	R1 515 104.64
Y9235	60	REHABILITATION OF CAB'S	R568 611.12
Y9200		REHABILITATION OF CAB'S	R7 535.80
			<b>R5 000 000.00</b>

FC No.: 365/C376

**A comment was made that in the meantime the Programme does not cater for all Wards requiring the service, with the implementation not taking place simultaneously due to budget constraints. It was confirmed though that consideration will be given to revising this arrangement in future to cater for additional Wards.**

**In this regard, the above Executive Committee recommendations were; accordingly, **ADOPTED.****

- 2.15 Proposed Lease of Portion 9 of Erf 136 Durban: Plan No SJ 4775/7 Extent 639m<sup>2</sup> (17/2/1/2/5):  
(Page 516: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

At the Executive Committee level, the DA abstained on the matter and with the other Political Parties being in support,

#### COMMITTEE RECOMMENDS:

- 2.15.1 That the Council approves in principle that the right be granted to use, control or manage the capital asset described as Portion 9 of Erf 136 Durban measuring 639m<sup>2</sup> in extent as depicted on Hand Plan No SJ 4775/7 Durban, in the Durban Entity, Province of KwaZulu-Natal in terms of Regulation 34 (1)(b) read with Regulation 36 and 41 of the Municipal Asset Transfer Regulations 2008 (MATR) that:
- 2.15.1.1 That the properties are not required to provide the minimum level of basic services for a period of 30 years, being the duration of the proposed lease.
- 2.15.1.2 That the current market rental value of the land is assessed at a value of R12 000 per month exclusive of VAT and is to be reviewed from time to time.

- 2.15.1.3 The properties be lease in accordance with the provision of the Preferential Procurement Policy Framework which supports Radical Economic Transformation and the Supply Chain Management Policy.
- 2.15.2 That all costs incidental to the transaction shall be at the cost of the lessee to whom the right to use, control or manage the capital asset is to be granted.
- 2.15.3 That all developmental plans must be submitted to the Local Authority for approval prior to any construction.
- 2.15.4 That subject to the adoption of .1 to .3 above and the approval of the Bid Adjudication Committee, the Head: Real Estate be authorized to sign all documents necessary to give effect to this transaction in terms of the Supply Chain Management policy of the Municipality, the Municipal Asset Transfer Regulations 2008, the Land Disposal and Granting of Rights Policy of the Municipality and any other applicable legislation and that it shall be further subject to such further conditions as the Head: Real Estate considers necessary to protect Council interest.

#### **REFERENCE BACK**

**In terms of Rule of Order Bylaw 20(1)(c), Councillor VG Reddy of ADEC, seconded by Councillor MM Hlengwa of APF, moved as a procedural motion that, “Proposed Lease of Portion 9 of Erf 136 Durban: Plan No SJ 4775/7 Extent 639m<sup>2</sup>”; be referred back to the Committee for a full review of leases and Policy in respect of lease agreements.**

#### **CARRIED**

**Accordingly, the above-mentioned motion to refer back was, unanimously, CARRIED.**

- 2.16 Proposed Long Term Lease of Various Sites: Cellular Base Stations (17/2/1/2/5):  
(Page 532: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)
- At Support Committee, with 26 Councillors present, 21 Councillors (ANC – 14, IFP - 2, EFF - 4 and KZN - 1) voted in support of the recommendations and 5 DA Councillors voted against the recommendations.

At the Executive Committee level, (03) DA Members voted against the recommendations. With (04) ANC Members and (01) EFF Member being in support,

#### **COMMITTEE RECOMMENDS:**

- 2.16.1 That the Council of eThekweni Municipality approves in principle that the right be granted to use, control or manage the capital assets described on annexure C in the report at the extents described of the Head: Real Estate dated 16 May 2023 on the Annexure C in terms of Regulation 34(1)(b) read with Regulation 36 and 41 of the Municipal Asset transfer Regulation 2008 that:
- 2.16.1.1 That the properties are not required to provide the minimum level of basic Municipal service for a period of 9 years and 11 months, being the duration of the proposed leases.

- 2.16.1.2 That the properties be leased in accordance with the provision of the preferential Procurement Policy Framework which supports Radical Economic Transformation Framework and the Supply Chain Management Policy.
- 2.16.2 That all costs incidental to the transaction shall be at the cost of the lessee to whom the right to use, control or manage the capital asset is to be granted.
- 2.16.3 That all developmental plans must be submitted to the Local Authority for approval prior to any construction.
- 2.16.4 That a flat-rate, fair market rental of R10 000 (Ten Thousand Rand) per locator, per month for all Cellphone sites has been determined, as per the table (excluding VAT) for the first year, thereafter, escalating by 7% per annum for the duration of the lease period.
- 2.16.5 That the sites be used for Cellular Base Station purposes only.
- 2.16.6 That in terms of the zonings of the sites, it shall be necessary for these new lessees to obtain the Special Consent of the Council for the construction of the Cellular Phone Base Stations and the leases shall be based on this proviso.
- 2.16.7 That the lessees shall obtain Provincial approval in terms of the Environmental Impact Assessment which shall accompany the special consent applications.
- 2.16.8 That subject to the adoption of .1 to .7 above and approval of the Bid Adjudication Committee the Head: Real Estate be authorized to sign all documents necessary to give effect to this transaction in terms of the supply chain management policy of the municipality, the municipal asset transfer regulation 2008, the land disposal and granting of rights policy of the municipality and any other applicable legislation and that it shall be further subject to such further conditions as the Head: Real Estate considers necessary to protect Council interest

#### **REFERENCE BACK**

**In terms of Rule of Order Bylaw 20(1)(c), Councillor VG Reddy of ADEC, seconded by Councillor MM Hlengwa of APF, moved as a procedural motion that, “Proposed Long Term Lease of Various Sites: Cellular Base Stations”; be referred back to the Committee for a full review of leases and Policy in respect of lease agreements.**

#### **CARRIED**

**Accordingly, the above-mentioned motion to refer back was, unanimously, CARRIED.**

- 2.17 Request for Authority to Transfer Funds from Savings Identified in Water and Sanitation Capital Budget to Fund the KwaNyuswa Project (23/1/11/2/1/2):  
(Page 629: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

Authority is sought for approval to transfer funds in the amount of R5 000 000.00 (Five Million Rand) as savings identified in the Water and Sanitation for 2022/2023 financial year budget from Project No.: Y8725 – Mahatma Gandhi Emergency work to fund the Project No.: 8346 - KwaNyuswa Project which was damaged by the storm and

associated works. The additional budget of R5 000 000.00 is required in order to complete the project before end of June 2023.

At the Support Committee level, Members of the Democratic Alliance abstained on the matter.

At the Executive Committee level, the DA continued expressing concern with regard to the tendency of removing funds from one critical project for use in another project. In this regard, a recommendation being made to rather consider utilising grant funding to execute the KwaNyuswa storm damages project. However, clarity was provided that grant funding subscribes to specific terms and conditions and with certain projects identified to be eligible to receive support from this funding source.

Thereafter, the DA abstained at this stage, with the other Political Parties being in support,

**COMMITTEE RECOMMENDS:**

- 2.17.1 That approval be granted for the transfer of funds in the amount of R5 000 000.00 (Five Million Rand) as savings identified in the Water and Sanitation for 2022/2023 financial year budget from Project No.: Y8725 – Mahatma Gandhi Emergency Work to fund the Project No.: 8346 - KwaNyuswa Project which was damaged by the storm and associated works in order to complete the project before end June 2023.
- 2.17.2 That authority be granted to the Head : Water and Sanitation to arrange tour of inspection for the Human Settlements and Infrastructure Committee to visit this project with a view to have more information on implementation of KwaNyuswa Project.

**Financial Implications:**

Capital savings project No.	Description	Budget transfer	To project No	Description	Amount Received	FC No
Y8725	Mahatma Gandhi emergency work	R5 000 000.00	X8346	Kwa-Nyuswa	R5 000 000.00	365/C378

**ADOPTED.**

- 2.18 Noting of Report in Terms of Section 116(3) of the Local Government: Municipal Finance Management Act 2003 to Amend Contract: 7E-4789 for the Lease of Premises: ITRUMP ABM Offices Situated At 77 “A” and “B” Monty Naicker Street (17/2/21/2):  
(Page 633: Human Settlements and Infrastructure Committee - Agenda 2023-06-23)

The Committee received the report for noting in terms of Section 116(3) of the Local Government : Municipal Finance Management Act, 2003 to amend the contract: 7E-4789 for the lease of premises : ITRUMP ABM Offices situated at 77 “A” and “B” Monty Naicker Street for an initial period of 12 month with an option to renew for further twelve (12) months.

**MOTIVATION FOR USE OF SECTION 116(3) / REASONS FOR PROPOSED AMENDMENTS**

Based on the above the Head: Real Estate had prepared a report to the Bid Adjudication committee seeking approval via section 36(1)(a)(v) of the Supply Chain Management Policy for a 12-month lease for the space occupied in the abovementioned buildings. The Bid Adjudication Committee did not approve the report and requested the Head: Real Estate to proceed via section 116(3) of the MFMA for the extension of the lease. (**“Annexure D”**)

The premises at 77A & B Monty Naicker Street are leased by the Municipality for the purposes of establishment of a project centre, operational hub and a demonstration centre for sustainable inner-city development. Improvements to the premises include a thriving rooftop farm, off-grid energy generation, rainwater collection and conservation systems, small space cultivation and greening, green walls, murals, training and meeting rooms, help desk and computer connectivity, storage rooms, as well as mustering, dining and changing areas for inner city EPWP staff.

The building is located directly opposite the ICC Arena and has become an icon for urban regeneration and urban management in eThekweni. It was used extensively as a broadcasting base for interviews during the COP 17, UIA Conference 2015 and is used as a reception and orientation centre for visiting international delegations.

The ABM project principles are incorporated into the Urban Management Zone program of the Clean My City campaign. This programme is to be progressively rolled out to all areas of the city, under the auspices of an integrated internal task team established by the City Manager and led by the Head Area Based Management. The project centre at 77A & B Monty Naicker Street is key to this roll out and will be used as a venue for structured mentorship programmes, as well as an operational centre for the Urban Management Zone programme.

Area-Based Management Unit program who play a vital role of being proactive in monitoring, reporting, facilitating and coordinating on service delivery within the Region 2 comprising of 12 Wards. It should be noted that the boundaries of ITRUMP ABM have been extended with the adaption of the two political regions, namely Victoria Mxenge and Gedley’hlekisa zone.

The rooftop garden at ITRUMP ABM incorporates indigenous succulents, landscaped gardens, food landscaping, vegetable, and herb tunnels. The garden was built from recycled products including old tyres, drums, and pallets. The rooftop garden serves as a showpiece of how to grow food without space. The garden is an example of what to do with your recycling. Plants are grown in shoes, buckets, handbags and up walls in old two litre plastic bottles – proof that you can plant anything, anywhere."

The garden was developed to serve as an example to other buildings that it is possible to have a garden in the inner-city environment with limited space and that buildings can be retrofitted to be more sustainable. A variety of vegetables and herbs are grown on the rooftop in flowerbeds or in tunnels under greenhouse sheeting and shade cloth. All the produce is organic, and no harmful chemicals are used. Crops are rotated to ensure that the soil is kept fertile. A wormery provides nutrient rich compost for the plants.

**Indigenous gardens and biodiversity:** In addition to the food crops the Rooftop Garden is host to a variety of indigenous plants that require less water and have helped to attract bees, butterflies and birds to the garden.



**A created space:** Rooftop Garden was designed not only for the production of food but serves as a space for meetings and staff lunch breaks. A new space has been created with benches, walkways and a chess board for socializing and relaxing which adds value to the building.

The roof also houses a solar PV unit which powers the buildings computers and back up lights, and a solar water geyser which supplies hot water for over 50 staff that shower daily on the premises.

**Benefits of rooftop gardens and green roofs**

- Vegetation reduces the indoor ambient air temperature of the building.
- Local indigenous plants help to bring biodiversity back into the city.
- Food production.
- Creates more recreational space for employees
- Reduced run-off - Green roofs help to reduce the amount of water that runs off buildings decreasing the impact on stormwater drains and decreasing the risk of floods in the city.

It is impossible to apply the normal procurement processes, as the premises are unique and no other building in the city could provide the required presence, environment, space, infrastructure and fit-out for the required purpose.

In order to maintain continuity, it is impractical to procure premises elsewhere and it would be best to extend the lease at the existing premises with a possibility of negotiating a long lease or purchase with the owner.

The current lease for the premises will terminate on the 5<sup>th</sup> of August 2023. The Head Area Based Management has indicated that they wish to remain at the current premises as they are ideal for the purpose of the ABM requirements.

In terms of the City Manager's directive to reduce deviations in terms of Section 36 of the Supply Chain Management Policy and in line with the recommendations of the Executive Committee Meeting the Head Real Estate has advised all unit Heads to commence the process of acquiring their own premises to provide municipal services or possibly using Municipal owned premises if available. In this regard, ITRUMP ABM is currently looking for suitable Council owned land or buildings to accommodate these facilities.

**COMMITTEE RECOMMENDS:**

- 2.18.1 That the Council notes the reasons to amend Contract 1E-4789 in terms of Section 116(3) of the Local Government Municipal Finance Management Act No56 of 2003, for the extension of the current lease contract with B & L Factory shop in respect of the premises situated at 77A & B Monty Naicker street in total extent 1600m<sup>2</sup> for an initial period of 12 months commencing on the 6<sup>th</sup> August 2023 and terminating 5<sup>th</sup> August 2024 with an option to renew for further periods of twelve (12) months for the following reasons that:
- 2.18.1.1 The tender for the procurement of the space to accommodate the above-mentioned unit culminated in a non-award and there being no alternate municipal owned premises of that magnitude to accommodate the units affected.

- 2.18.1.2 The expression of interest to purchase once the funding has been approved will take approximately a year to finalized
- 2.18.2 That subject to the adoption of .1 above, Council notes the public participation process was advertised through the media, in terms of section 116(3) of MFMA as part of achieving compliance requirements pertaining to the public participation process to invite public comments on the proposed contract amendment.
- 2.18.3 That it is recorded that there were no objections to the proposed extension of the lease.

**Financial Implications:**

Monthly charges excluding VAT, Rates and Taxes, Operating Cost, parking and utilities.

Basic Rental (Monthly)	Basic Rental (Annual)	Period
R165 680.00	R1 988 160.00	6 August 2023 to 5 <sup>th</sup> August 2024

**NOTED.**

3. REPORT OF THE ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE: MEETING HELD 2023-06-26

(Page R24)

- 3.1 Request for Authority to Call for Nominations to Fill Non-Executive Director Vacancies to Serve on the Board of the Inkosi Albert Luthuli International Convention Centre (Trading as the Durban ICC): (4/3/2):  
(Page 11 : Economic Development and Planning Committee - Agenda 2023-06-26)

Authority is sought to call for nominations for Non-Executive Directors to serve on the board of the Inkosi Albert Luthuli International Convention Centre Complex (trading as the Durban ICC). In addition, authority is sought for the City Manager to call for nominations for 3 Non-Executive Directors in accordance with the eThekweni Municipality Policy and process for the appointment of Directors of the Boards of Municipal Entities.

It was noted that the Durban ICC is a Municipal entity of the eThekweni Municipality and needs to have a complement of 9 Non-Executive Directors within every term to be fully functional, it being noted that Non-Executive Directors are appointed timeously to ensure that the Board remains functional.

It was further noted that there are 3 Non-Executive Director's whose term will end during the months of September and October 2023 and that they also completed 2 terms. In this regard they are therefore not eligible for an extension.

Having noted the foregoing,

**COMMITTEE RECOMMENDS:**

- 3.1.1 That the call for nominations for 3 Non-Executive Directors to serve on the board of the Durban International Convention Centre, be approved.

- 3.1.2 That subject to the adoption of .1 above, the City Manager be authorised to call for nominations in accordance with the eThekweni Municipality Policy and process for the appointment of Directors of the Boards of Municipal Entities.

**ADOPTED.**

- 3.2 Request for Approval to Continue Funding the Durban Automotive Industry Development Programme (20/1/6/3):  
(Page 13 : Economic Development and Planning Committee - Agenda 2023-06-26)

Authority is sought for approval to continue funding the Durban Automotive Cluster (DAC), an initiative in collaboration with the Automotive Industry. Additionally, authority is sought to enter into a new Memorandum of Agreement for the next 3-year cycle starting from 2023-07-01 to 2026-06-30, and to disburse funding in terms of Section 67 of the Local Government Municipal Finance Management Act (MFMA) and the Memorandum of Agreement (MOA).

The DAC is a strategic purpose vehicle that affords the City the opportunity to directly drive and support the development of the automotive manufacturing sector in the City. The Cluster strives to stimulate economic growth in the automotive manufacturing industry (a key priority investment industry for eThekweni Municipality, which aims to reindustrialise municipality to better support the needs of all who live there).

It was noted that through partnership with industry and key sector stakeholders, and in alignment with the South African Automotive Masterplan, the Cluster aims to enhance the competitiveness of this established industry, drive localisation, and support economic growth, incubate emerging new entrants into the sector, provide targeted programmes for Black industrialists and drive market growth for local manufacturers.

The Economic Development Unit's strong partnership with the DAC helps to create a platform for stakeholders to facilitate engagement and assist business overcoming their challenges, identifying new opportunities for investment, economic growth and job creation that will drive economic output, productivity, poverty reduction, social well-being and prosperity. It also aims to create a business environment that is supportive of investment in the automotive sector through which companies can expand their businesses and climb up the economic ladder.

Having considered the foregoing,

**COMMITTEE RECOMMENDS:**

- 3.2.1 That the Head (Economic Development) be authorised to continue participating in the Durban Automotive Cluster programme for the development of the sector.
- 3.2.2 That subject to approval of .1 above, the City Manager be authorised to conclude a new Memorandum of Agreement to give effect to the above for the three-year period starting from 2023-07-01 to 2026-06-30.
- 3.2.3 That subject to the approval of .1 and .2 above, the Head (Economic Development) be duly authorised in accordance with the Memorandum of Agreement, to disburse the funds to the Durban Automotive Cluster amounting to R2 783 004 (Two Million Seven Hundred and Eighty Three Thousand and Four Rand) (no VAT) for the 2023/2024 financial period; R2 977 814 (Two Million Nine Hundred and Seventy Seven Thousand Eight Hundred and Fourteen Rand) (no VAT) for the 2024/2025 financial

period; and R3 186 261 (Three Million One Hundred and Eighty Six Thousand Two Hundred and Sixty One Rand) (no VAT) for the 2025/2026 financial period, in terms of Section 67 of Municipal Finance Management Act and in accordance with the Memorandum of Agreement.

- 3.2.4 That authority be granted for the Head (Economic Development) to report progress on this initiative on an annual basis.

**Financial Implications:**

The business plan for July 2023 to June 2026 reflects an operational and budget structure aligned with these focus areas. The overall budget for the programme for the 36-month period is R13,2 Million, with R8,9 Million of this amount requested from the eThekweni Municipality.

VOTE NUMBER	AMOUNT	FINANCIAL YEAR
26102.25445.200.12120.0000.38871.0010	R2 783 004 (no VAT)	2023/2024
26102.25445.200.12120.0000.38871.0010	R2 977 814 (no VAT)	2024/2025
26102.25445.200.12120.0000.38871.0010	R3 186 261 (no VAT)	2025/2026

FC No.: 2024/18/06

**As some members were not in support of the recommendations, the matter was put to the vote. With 172 Councillors present, 125 Councillors (ANC - 80, EFF – 18; IFP- 12, Action SA -02, ABC – 02; ACC - 01, ACDP – 00;DLC – 00; ADEC – 01; APF – 01; AIC- 02; ATM - 01; ALJAMAH – 00; JEP -01; KZNI – 01, MF – 01, MOSA- 00, NFP - 00; PFP – 00, PRM – 01, TA- 00 and UIM – 01) voted in favour of the recommendations and 01 VF Plus Councillor voted against the matter. 46 DA Councillors abstained on the matter.**

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

- 3.3 Request for Approval of Incentives as per the Economic Development Incentive Policy (EDIP) (20/1/P).  
(Page 80 : Economic Development and Planning Committee - Agenda 2023-06-26)

Authority is sought for the approval for the award of incentives as per the Economic Development Incentive Policy (EDIP) 2022-2023. the EDIP gives effect to Clause 14.7 of the approved eThekweni Rates Policy 2022/2023. The Ridgeside Devco (Pty) Ltd entity has qualified for the incentive property rates rebates.

It was noted that the Economic Development Incentive Policy offers incentives aimed at attracting investment and promoting the development of spatial targeted economic zones, inner city regeneration, increase targeted densification, enhance export activities through increased manufacturing and investment in local industries.

The Ridgeside development is a mixed-use development on a vacant site situated at 9 Vuna Close, Ridgeside, Umhlanga, eThekweni. The development along the coastal belt will boost investment, tourism and trade. Durban’s year-long, pleasant climate and the ocean views will be a string drawcard to this facility and will present positive spinoffs for trade in the area.

It was noted that increased commercial and industrial activity will provide opportunities for much needed job creation post the resultant unemployment during Covid 19 pandemic.

Percentage Rebate as per Qualifying Criteria:

Criteria	Rules	Qualifying Percentage-Ridgeside Devco (Pty) Ltd	Reason for Allocation
Value of Investment	Investments R0 to R299 Million=10%	10%	R133 663 550.00
Jobs Created	50-250 jobs = 10%	10%	R150 permanent jobs
Spatial Priority	Investment in Spatial Priority Area = 20%	20%	Prime Investment Corridor
<b>Total Rebate Percentage</b>	<b>40%</b>		

Following discussion,

**COMMITTEE RECOMMENDS:**

- 3.3.1 That the award of a property rates rebate of 40% to Ridgeside Devco (Pty) Ltd for a fixed period of three years commencing from date of final signature on the Memorandum of Agreement.
- 3.3.2 That subject to the adoption of .1 above authority is granted to the City Manager to enter into a Memorandum of Agreement with the successful applicant namely Ridgeside Devco (Pty) Ltd.
- 3.3.3 That authority be granted for the Heads Economic Development Unit and Revenue Management Units to implement the rates rebate in accordance with the Economic Development Incentive Policy.

**Speaking on the matter, the IFP welcomed the Economic Development Incentive Policy, acknowledging this will result in targeted investment attraction as well as job creation. The EFF also welcomed the report, emphasizing the importance to fastrack project authority approvals once the development has been submitted officially.**

**The ANC also spoke on the matter emphasizing the role of government to take responsibility to create environment conducive for job creation and economic growth. It being reported that the Economic Development Incentive Policy was first adopted in 2016 and has yielded positive result with fifty-four (54) Companies having benefitted and hundreds of jobs created. Indication was given that the Policy will continue attracting investors as well as impacting economic recovery in eThekweni.**

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

- 3.4 Request for the Approval of the Final Draft 2023/2024 Municipal Spatial Development Framework (21/5/1):  
(Page 120 : Economic Development and Planning Committee - Agenda 2023-06-26)

It will be recalled that the Municipal Council at its meeting held on 2023-02-28 approved the request for authority for the draft 2023/2024 Municipal Spatial Development Framework to be advertised for public comments, and to engage with all Portfolio Committees of Council and for any comment received to be considered, prior to submitting the Final Draft Spatial Development Framework report for adoption.

Following Council approval in the above regard, the draft 2023/2024 Municipal Spatial Development Framework was advertised for public comment between 01 March to 29 April 2023 in the Ezasegagasini, and in local newspapers circulating in the eThekweni Municipality area. The comments received have been considered and tabled for adoption by Council. The Final Draft 2023-2024 Municipal Spatial Development Framework will be submitted to the MEC for Co-operative Governance and Traditional Affairs (COGTA) and will be gazetted as per statutory requirement.

Given the developments in terms of the Municipal Spatial Development Framework, authority is therefore sought for the Final Draft 2023/2024 Municipal Spatial Development Framework to be adopted by the Council, and thereafter the final notice of Council resolution to adopt the Final 2023/2024 Municipal Spatial Development Framework be Gazetted in terms of Section 20(1) of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013).

In addition, authority is sought for the adopted Final Draft 2023/2024 Municipal Spatial Development Framework to be submitted to the MEC for COGTA for the final assessment.

With the Committee having noted the formulation and adoption of the Municipal Spatial Development is in line with the requirements of both the Municipal Systems Act (MSA), No. 32 of 2000 and the Spatial Planning and Land Use Management Act (SPLUMA, Act No.16 of 2013) and eThekweni Municipality Planning and Land Use Management By-Laws (2016).

At the Executive Committee level, as part of the City's objective to being the liveable City, an appeal was made to consider rezoning certain precincts to incorporate developments complementing nearby operations. That this be incorporated in the future Municipal Spatial Development Framework.

With the Committee being in support,

#### COMMITTEE RECOMMENDS:

That the final Municipal Spatial Development Framework 2023-2024 submitted in line with the requirements of the Local Government Municipal Systems Act No. 32 of 2000 and the Spatial Planning and Land Use Management Act 16 of 2013, be adopted. It being recorded that the public and stakeholder comments have been taken into account when finalising the Spatial Development Framework.

#### **ADOPTED.**

### 3.5

Update on the Development of South African Climate Change Bill (32/2/2):  
(Page 139 : Economic Development and Planning Committee - Agenda 2023-06-26)

Committee considered a report apprising Members about the development of the South African Climate Change Bill, its status and the joint submissions made by the City as part of the Climate Leadership Group (C40) member.

Climate Change is one of the major global challenges of the 21<sup>st</sup> century that require global response. Combatting climate change would require substantial and sustained reductions in greenhouse gas emissions (GHGs), which, together with adaption, can limit climate change risks.

The purpose of the Climate Change Bill is to build an effective climate change response and ensure the long-term, just transition to a climate resilient and lower carbon economy and society. The Bill acknowledges the urgent threat that climate change presents and emphasizes the need for an effective, progressive and incremental response.

It was noted that an earlier version of the Climate Change Bill [B9-2022] (the “Bill”) was first published for public comments on 2018-06-08. Subsequently, C40, Cape Town, Durban, Ekurhuleni, Johannesburg and Tshwane jointly engaged with National Government on the draft Bill through the Presidential Climate Change Commission. The City co-hosted the public hearing meeting on 2023-03-05, at Westville Civic Hall, Durban.

The Bill proposes to do the following:

- a) Regulates climate change mitigation – the reduction of greenhouse gas carbon emissions to slow down and stop climate change. The Minister to assign carbon budget to companies to limit their carbon emissions.
- b) Manages climate change adaption – adapting to impacts such as flooding, drought, wildfires, excessive heat and water and food insecurity – impacts which will intensify as climate change worsens. The Government is obliged to assess all of the risks and expected impacts, and create response plans. This happens at a national, provincial and local level.
- c) The Bill defines responsibilities for different National Government Departments, as well as for Provincial and Local Government, including Municipalities. This will ensure that all relevant role-players are mandated to do their part in responding to climate change, and work together effectively.

It was subsequently

#### COMMITTEE RECOMMENDS:

- 3.5.1 That Council notes the process to develop Climate Change Bill to build effective climate change response and ensure the long-term, just transition to a climate resilient and lower carbon economy and society.
- 3.5.2 That Council continues to engage and make meaningful input in the Climate Change Bill before it becomes law.

**Commenting on the matter, the DA indicated that in year 2018, during a meeting of the COP 24, a warning was issued to governments of the world on the adverse effects of climate change as well as global warming. That the Municipality has been attacked by natural disasters in recent years resulting in loss of life, infrastructure damages etc. The view then was that the Municipality learn from the past experiences, in order to be ready for any unforeseen future disaster. The EFF added that the current design of storm water drainage system does not have the necessary capacity to deal with disastrous events.**

**However, the development of the Climate Change Bill was noted, an indication given that the Municipality further develops internal capacity to deal with the impact of climate change.**

**The IFP encouraged enhanced public participation and awareness regarding issues of climate change, with the relevant Units, including Engineering, Economic Development etc to be available to raise awareness during the sessions.**

**Thereafter, the ANC noted the update on the development of the Climate Change Bill. Also noting that the Bill is aimed at building effective climate change responses and ensuring long-term, just transition to a climate resilient and lower carbon economy and society.**

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

- 3.6 Approval of Public Consultation Process for Proposed Amendments to eThekweni Municipality Problem Buildings By-Law, 2015 (1/1/3/1/41):  
(Page 173 : Economic Development and Planning Committee - Agenda 2023-06-26)

Authority is sought to obtain approval for the publication and commencement of public participation process of the eThekweni Municipality: Problem Buildings By-law.

eThekweni Municipality has the executive and legislative authority to make and administer By-laws for the effective administration over matters such as the eradication of problem buildings within the Municipality's jurisdiction as per Section 156 of the Constitution. It was noted that there is a need to develop and review legislation to regulate and management the operations of the Problem Buildings Division within the eThekweni. Although the Municipality currently has a Problem Buildings By-law which was promulgated in 2015, it does not effectively meet the Municipality's objectives fully and completely and will therefore need to be amended to cater for certain omissions.

It was further noted that the Legal and Compliance Unit consulted extensively with the Problem Buildings Steering Committee to draft the amendments to the By-law which addresses the needs and the administrative tools required by the Unit to perform their function properly. Consultations with the Unit have been finalised and the amended By-law is now ready for deliberation and consideration by the Committee, and thereafter approval for publication and for the commencement of the public participation process.

The problem Building By-law has been amended in the main as per the following:

- a) amendments in the "Table of Contents" by the insertion of the following:
  - (i) 4A. General maintenance of buildings;
  - (ii) 4B. Identification and Initial Assessment;
  - (iii) 12A. Appointment of an Administrator; and
  - (iv) 12B. Establishment of the Problem Buildings Steering Committee;
- b) amendment of the definition of "building";
- c) amendment of the definition of "hijack";
- d) amendment of the definition of "Problem Building";
- e) certain minor omissions and insertions for clarification and a better understanding.



Subsequently

COMMITTEE RECOMMENDS:

- 3.6.1 That the eThekweni Municipality: Proposed amendments to the Problem Buildings By-law, be approved for publication and for the commencement of the public participation process.
- 3.6.2 That after the closure of the period allowed for public participation and after due consideration of any representations received from the public, if any, that the above By-law is to be submitted to the Economic Development and Planning Committee, Executive Committee and Council for final approval.
- 3.6.3 That the proposed amendments to the Problem Buildings By-law be workshopped with the Economic Development and Planning Committee prior to the public participation process.

**A submission was made that the Municipality should urgently commence with the public participation process of the eThekweni Municipality: Problem Buildings By-law to obtain necessary buy-in from the residents. Also, for the Municipality to maintain its own buildings.**

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

- 3.7 Category 1 Application: Application in Terms of the Provisions of the eThekweni Municipality Planning and Land Use Management By-Law 2016 (Municipal Notice No. 114 of 2017) for the Amendment of the eThekweni Municipality Land Use Scheme (Outer West Sub-Scheme) Regulations (Section 7): Special Zone 14: Ntshongweni (21/7/3):  
(Page 190 : Economic Development and Planning Committee - Agenda 2023-06-26)

Authority is sought for the approval for amendment of the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme, Section 7: Special Zone 14: Ntshongweni by amending the existing development facilitation table for the zone.

Section 26 of the Second Amendment By-Law deals with Category 1 land development determinations and reads as follows:

*(1) A Category 1 determination must be considered, approved and adopted by the Municipal Council and includes the following:*

- (a) the adoption of the land use scheme; and*
- (b) the amendment or review of the land use scheme.*

It was recalled that the Council at its meeting held in 2016, its adopted an amendment to bring in the new Scheme for the shopping Centre which measured approximately 80 000m<sup>2</sup> of bulk. However, post Covid 19, the shopping centre has had to re-think its viability and has scale down the shopping centre to approximately 50 000m<sup>2</sup> of bulk. It was noted that the reduction of the size has impacted on the land use mix and hence there has been consideration of a more sustainable land use mix.

Therefore, the proposed amendment aims to facilitate and encourage investment and development while creating an environment of certainty. Its also aims to remove red tape that has proven to lengthen the period between conception and development of

properties. This will still embrace the original principles and objectives of the urban core precinct.

Having noted that the proposal is in line with the eThekweni Municipality's objectives to promote spatial efficiency by optimising development in areas of greatest opportunity and encourages efficient use of infrastructure and facilities, it was

### COMMITTEE RECOMMENDS:

In terms of Section 26(1) of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law 2016 (Municipal Notice 114 of 2017) the application for the amendment of the eThekweni Municipality Land Use Scheme: Outer West Sub-Scheme: Section 7 Development Facilitation Table: Special Zone: Ntshongweni" be adopted for the following reasons:

- 3.7.1 The proposed amendments will make a positive impact on new investment and development in this catalytic project.
- 3.7.2 The proposed amendments will facilitate and encourage investment and development while creating an environment of certainty

The eThekweni Municipality Land Use Scheme: Outer West Sub-Scheme: Section 7 Development Facilitation Table: Special Zone 14: Ntshongweni will be amended to include the following table:

SPECIAL ZONE: NTSHONGWENI IT SHOULD BE NOTED THAT THIS ZONE WILL CONSIST OF VARIOUS PRECINCTS, EACH WITH ITS OWN LAND USE AND ADDITIONAL CONTROLS		
THE PURPOSE OF THIS ZONE WILL BE TO PROVIDE FOR A SUSTAINABLE MIXED-USE URBAN DEVELOPMENT BASED ON SMART CITY PRINCIPLES AND SET TO ACCOMMODATE A WIDE RANGE OF SHOPS (RETAIL), OFFICES, RECREATIONAL, ENTERTAINMENT, TOURISM, RESIDENTIAL AND BUSINESS AND COMMERCIAL RELATED ACTIVITIES		
PRECINCT ONE – WESTOWN URBAN CORE		
PRECINCT ONE is comprised of 3 main Land Use Categories as provided for in (f) below. Each Land Use Category has its own set of Primary, Special Consent and Precluded Land Uses as follows.		
URBAN USE 1		
Urban Use 1 refers broadly to the following activities and uses and activities generally related to these: shopping, offices, hotels, Leisure uses, Residential, retail park, health facilities, Arts and Crafts, but does not include Fuelling and Service Station uses and activities with the exception of those sites designated in the Precinct Plan. Urban Use 1 also excludes warehousing and self-storage as well as motor garages unless by Special Consent.		
PRIMARY	SPECIAL CONSENT	PRECLUDED
<ul style="list-style-type: none"> <li>Betting Depot</li> <li>Car Wash</li> <li>Crèche</li> <li>Convention Centre</li> <li>Educational Establishment</li> <li>Flat</li> <li>Flea Market</li> <li>Fuelling and Service Station*</li> <li>Garden Nursery</li> <li>Government / Municipal</li> <li>Health &amp; Beauty Clinic</li> <li>Health Studio</li> <li>Hotel</li> <li>Institution</li> <li>Laundry</li> <li>Motor Display Area*</li> <li>Motor workshop*</li> <li>Multiple Unit Development</li> <li>Museum</li> </ul>	<ul style="list-style-type: none"> <li>Telecommunications Infrastructure</li> <li>Action Sports Bar</li> <li>Adult Premises</li> <li>Adventure Tourism Activities</li> <li>Arts and Crafts Workshop</li> <li>Display Area</li> <li>Escort Agency</li> <li>Funeral Parlour</li> <li>Industrial-Light</li> <li>Motor Garage (Spray-painting and Body work/panel replacement on vehicles)</li> <li>Night Club</li> <li>Place of Public of Worship</li> <li>Special Building</li> <li>Student Residence</li> <li>Tavern</li> <li>Truck Stop</li> <li>Warehouse</li> </ul>	<ul style="list-style-type: none"> <li>Agricultural Activity</li> <li>Agricultural Land</li> <li>Airport</li> <li>Boarding House</li> <li>Builder's Yard</li> <li>Cemetery / Crematorium</li> <li>Chalet Development</li> <li>Container Depot</li> <li>Correctional Facility</li> <li>Direct Access Service Centre</li> <li>Dwelling House</li> <li>Industry - Extractive</li> <li>Industry – General</li> <li>Industry – Noxious</li> <li>Landfill</li> <li>Mobile Home Park &amp; Camping Ground</li> <li>Mortuary</li> <li>Motor Vehicle Test Centre</li> <li>Nature Reserve</li> </ul>

<p><b>SPECIAL ZONE: NTSHONGWENI</b> IT SHOULD BE NOTED THAT THIS ZONE WILL CONSIST OF VARIOUS PRECINCTS, EACH WITH ITS OWN LAND USE AND ADDITIONAL CONTROLS</p>		
<p><b>THE PURPOSE OF THIS ZONE WILL BE TO PROVIDE FOR A SUSTAINABLE MIXED-USE URBAN DEVELOPMENT BASED ON SMART CITY PRINCIPLES AND SET TO ACCOMMODATE A WIDE RANGE OF SHOPS (RETAIL), OFFICES, RECREATIONAL, ENTERTAINMENT, TOURISM, RESIDENTIAL AND BUSINESS AND COMMERCIAL RELATED ACTIVITIES</b></p>		
<p><b>PRECINCT ONE – WESTOWN URBAN CORE</b></p>		
<ul style="list-style-type: none"> <li>Office</li> <li>Office – Medical</li> <li>Parkade</li> <li>Place of Public Entertainment</li> <li>Pet Grooming Parlour</li> <li>Private Open Space</li> <li>Restaurant / Fast Food Outlet</li> <li>Residential Building</li> <li>Retirement Centre</li> <li>Riding Stables</li> <li>Self-Storage</li> <li>Shop</li> <li>Veterinary Clinic</li> <li>Zoological Garden</li> </ul>		<ul style="list-style-type: none"> <li>Recycling Centre</li> <li>Reform School</li> <li>Refuse Disposal</li> <li>Restricted Building</li> <li>Scrap Yard</li> <li>Transport Depot</li> </ul>
<p>* As provided for on the Precinct Plan</p>		
<p><b>URBAN USE 2</b></p>		
<p><b>Urban Use 2</b> refers broadly to the following activities and uses and the activities generally related to these: retail, office, commercial, health facilities, residential, warehousing and self-storage facilities and motor-related uses but does not include a Fuelling and Service Stations with the exception of those sites designated on the Precinct Plan. Motor-related uses include motor showrooms (display areas), motor garage, car sales, car wash, car workshops and vehicle preparation areas, the sale of vehicle parts and accessories, fitment centres, warehousing, etc.</p>		
<p><b>PRIMARY</b></p>	<p><b>SPECIAL CONSENT</b></p>	<p><b>PRECLUDED</b></p>
<ul style="list-style-type: none"> <li>Adventure Tourism Activities</li> <li>Agricultural Land</li> <li>Arts and Crafts Workshop</li> <li>Betting Depot</li> <li>Car Wash</li> <li>Crèche</li> <li>Convention Centre</li> <li>Display Area</li> <li>Educational Establishment</li> <li>Flat</li> <li>Flea Market</li> <li>Fuelling and Service Station*</li> <li>Garden Nursery</li> <li>Government / Municipal</li> <li>Health &amp; Beauty Clinic</li> <li>Health Studio</li> <li>Hotel</li> <li>Industrial – Light**</li> <li>Institution</li> <li>Laundry</li> <li>Motor Display Area</li> <li>Motor workshop</li> <li>Multiple Unit Development</li> <li>Museum</li> <li>Nature Based Recreation and Tourism</li> <li>Office</li> <li>Office – Medical</li> <li>Motor Garage</li> <li>Parkade</li> <li>Place of Public Entertainment</li> <li>Pet Grooming Parlour</li> <li>Private Open Space</li> </ul>	<ul style="list-style-type: none"> <li>Telecommunications Infrastructure</li> <li>Action Sports Bar</li> <li>Adult Premises</li> <li>Direct Access Service Centre</li> <li>Escort Agency</li> <li>Funeral Parlour</li> <li>Night Club</li> <li>Place of Public of Worship</li> <li>Special Building</li> <li>Student Residence</li> <li>Tavern</li> <li>Truck Stop</li> </ul>	<ul style="list-style-type: none"> <li>Agricultural Activity</li> <li>Airport</li> <li>Boarding House</li> <li>Builder's Yard</li> <li>Cemetery / Crematorium</li> <li>Chalet Development</li> <li>Container Depot</li> <li>Correctional Facility</li> <li>Dwelling House</li> <li>Industry - Extractive</li> <li>Industry – General</li> <li>Industry – Noxious</li> <li>Landfill</li> <li>Mobile Home Park &amp; Camping Ground</li> <li>Mortuary</li> <li>Motor Vehicle Test Centre</li> <li>Nature Reserve</li> <li>Recycling Centre</li> <li>Reform School</li> <li>Refuse Disposal</li> <li>Restricted Building</li> <li>Scrap Yard</li> <li>Transport Depot</li> </ul>

<p><b>SPECIAL ZONE: NTSHONGWENI</b> IT SHOULD BE NOTED THAT THIS ZONE WILL CONSIST OF VARIOUS PRECINCTS, EACH WITH ITS OWN LAND USE AND ADDITIONAL CONTROLS</p>		
<p><b>THE PURPOSE OF THIS ZONE WILL BE TO PROVIDE FOR A SUSTAINABLE MIXED-USE URBAN DEVELOPMENT BASED ON SMART CITY PRINCIPLES AND SET TO ACCOMMODATE A WIDE RANGE OF SHOPS (RETAIL), OFFICES, RECREATIONAL, ENTERTAINMENT, TOURISM, RESIDENTIAL AND BUSINESS AND COMMERCIAL RELATED ACTIVITIES</b></p>		
<p><b>PRECINCT ONE – WESTOWN URBAN CORE</b></p>		
<ul style="list-style-type: none"> <li>• Restaurant / Fast Food Outlet</li> <li>• Residential Building</li> <li>• Retirement Centre</li> <li>• Riding Stables</li> <li>• Self-Storage</li> <li>• Shop</li> <li>• Veterinary Clinic</li> <li>• Warehouse**</li> <li>• Zoological Garden</li> </ul> <p>* As provided for on the Precinct Plan</p> <p>** Provided that any activity within this use which may require a separate, specific trade license or permit shall require a Special Consent application</p>		
<p><b>OPEN SPACE/RECREATION</b></p> <p><b>Open Space/Recreation</b> refers broadly to, and permits, the following activities and uses and the activities related to these: open space, conservation and recreation including inter alia walking, hiking, orienteering, mountain biking, equestrian and trail running activities.</p>		
<p><b>PRIMARY</b></p> <ul style="list-style-type: none"> <li>• Adventure Tourism Activities</li> <li>• Agricultural Land</li> <li>• Conservation Area</li> <li>• Nature Based Recreation and Tourism</li> <li>• Nature Reserve</li> <li>• Private Open Space</li> <li>• Riding Stables</li> </ul>	<p><b>SPECIAL CONSENT</b></p>	<p><b>PRECLUDED</b></p> <ul style="list-style-type: none"> <li>• All other Land Uses</li> </ul>
<p><b>ADDITIONAL CONTROLS</b></p>		
<p><b>GENERAL</b></p> <p>(a) Westown Urban Core is at the heart of the overall Ntshongweni Urban Development and is a single Precinct anchored by a high street focused retail environment and related mixed-uses, business activities and high-density residential developments.</p> <p>(b) The Ntshongweni Development Framework shall be divided into one or more Precincts. Each Precinct shall have a Precinct Plan prepared for it and approved by the Municipality's Head: Development Planning and Management prior to any development occurring within the Precinct</p> <p>(c) The Westown Urban Core Precinct Plan provides the over-arching policy statements and basic intent of this zone and details the role and context of Precinct 1 (Westown Urban Core)</p> <p>(d) A Precinct Plan shall include, at least, details on each of the following:</p> <p>Land Use Controls, FAR, Coverage, Height (which may be expressed as a height envelope), Building Lines, Build-To Lines, Build-Within Zones and/or Building Restriction Areas, Parking provisions, Landscaping, Site accesses, Use of Sidewalks, Additional, site particular, Design and/or Planning Controls, Informal Trading areas if applicable, Bus/Taxi Ranks if applicable, Bus/Taxi Lay byes if applicable, a total quantum of development rights ("Rights Bank"), a total quantum of vehicle trips ("Trips Bank"), road reserves, road classes, road cross sections and access management as appropriate.</p> <p>(e) The development controls for this special zone are defined in terms of land use specifically and floor area ratio generally. These and other controls are to be detailed, on a site-by-site basis, in the Precinct Plan as envisaged in (d) above.</p> <p>(f) Land use is defined according to three land use categories: Urban Use 1, Urban Use 2 and Open Space/Recreation.</p> <p>(g) <b>Urban Use 1</b> refers broadly to the following activities and uses and activities generally related to these: shopping, offices, hotels, Leisure uses, Residential, retail park, health facilities, Arts and Crafts, but does not include Fuelling and Service Station uses and activities with the exception of those sites designated in the Precinct Plan. Urban Use 1 also excludes warehousing and self-storage as well as motor garages unless by Special Consent.</p> <p>(h) <b>Urban Use 2</b> refers broadly to the following activities and uses and the activities generally related to these: retail, office, commercial, health facilities, residential, warehousing and self-storage facilities and motor-related uses but does not include a Fuelling and Service Stations with the exception of those sites designated on the Precinct Plan. Motor-related uses include motor showrooms (display areas), motor garage, car sales, car wash, car workshops and vehicle preparation areas, the sale of vehicle parts and accessories, fitment centres, warehousing, etc Provided that any activity or use within this Use Category which requires any separate or specific trade license or permit shall require a Special Consent application subject to not being in conflict with any EIA approval for the Precinct.</p>		

	<p align="center"><b>SPECIAL ZONE: NTSHONGWENI</b>  <b>IT SHOULD BE NOTED THAT THIS ZONE WILL</b>  <b>CONSIST OF VARIOUS PRECINCTS, EACH WITH</b>  <b>ITS OWN LAND USE AND ADDITIONAL</b>  <b>CONTROLS</b></p>	
<p><b>THE PURPOSE OF THIS ZONE WILL BE TO PROVIDE FOR A SUSTAINABLE MIXED-USE URBAN DEVELOPMENT BASED ON SMART CITY PRINCIPLES AND SET TO ACCOMMODATE A WIDE RANGE OF SHOPS (RETAIL), OFFICES, RECREATIONAL, ENTERTAINMENT, TOURISM, RESIDENTIAL AND BUSINESS AND COMMERCIAL RELATED ACTIVITIES</b></p>		
<p align="center"><b>PRECINCT ONE – WESTOWN URBAN CORE</b></p>		
<p>(i) <b>Open Space/Recreation</b> refers broadly to, and permits, the following activities and uses and the activities related to these: open space, conservation and recreation including inter alia walking, hiking, orienteering, mountain biking, equestrian and trail running activities.</p> <p>(j) Fuelling and Service Station are as indicated on the Precinct Plan, subject to environmental authorisation as appropriate, and Design Review Panel approval relating to the integration thereof into the urban fabric.</p>		
<p><b>Development Rights</b></p>		
<p>(k) The <u>total</u> development rights (floor area) for (Precinct 1 (Westown Urban Core)) will be 'held' in a "Rights Bank" and allocated/distributed/transferred/used and shall be managed by both the Municipality and Primary Developer and shall furthermore be subject to a maximum quantum of vehicle trips as indicated on the Precinct Plan and as provided for in (d) above.</p> <p>(l) The total development rights (floor area) for the Westown Urban Core Precinct is a maximum of 517 684m<sup>2</sup> as indicated on the Precinct Plan Rev 12A dated 31 August 2022 and as may be amended from time to time.</p> <p>(m) All development rights (floor area) within this zone shall be allocated/distributed/transferred/used solely by the Primary Developer or by another party with the written consent of the Primary Developer. Such written consent shall include a sale (or Lease) agreement.</p> <p>(n) The purchaser of a property within Precinct 1 shall be limited to the quantum of floor area that has been specified in the Title (or Leasehold) Deed of the property. This quantum may be amended with the consent of the Primary Developer subject to (l) above.</p> <p>(o) Any additional development rights (floor area) sought, over and above the amounts stipulated in (l) above, shall be subject to a Scheme Amendment. Any increase to the "Trips Bank", as indicated on the Precinct Plan, shall require an amendment to the Precinct Plan as provided for in (s) below.</p> <p>(p) The Municipality and the Primary Developer shall maintain an accurate and up-to-date record of both the sale (and/or lease) and use of development rights in this zone as well as the trip generation for each building/development, in a proper and accessible manner which shall be subject to annual audit by an independent body if deemed necessary by any of the 2 parties. No Building Plan shall be considered by the Municipality without confirmation of such as provided for in (ii) below.</p>		
<p><b>Additional Controls</b></p>		
<p>(q) Height is defined, per site, in terms of a permissible height as indicated on the Precinct Plan and as provided for in (u) below.</p> <p>(r) The floor area ratio is defined, per site, as indicated on the Precinct Plan.</p> <p>(s) An approved Precinct Plan may be amended in a manner deemed appropriate by the Head: Development Planning, Environment and Management, provided that the desired amendment is not in conflict with the provisions of this zone and provided that the Design Review Panel has given its support, in writing, for the amendment. Amendments include changes to land use, height, F.A.R and/or any other element on the Precinct Plan. Cadastral, servitude (or leasehold) changes do not require a formal amendment to the Precinct Plan.</p> <p>(t) Any other component of the development for which an amendment is sought shall only be approved by the Municipality in a manner deemed appropriate by the Municipality's Head: Development Planning and Management.</p> <p>(u) Heights (including any and all structures (with the exception of architectural and aesthetic elements and antennae and masts designed as an integral part of a building's architectural ethic) and levels, including all parking levels and structures) on any site within the Precinct shall be as indicated on the Precinct Plan and shall be based upon a building height envelope, that may be translated, on a site by site basis, into a specific height in metres measured from finished sidewalk level at its highest point relating to the site for each indicated number of storeys such that it is the height envelope (in metres) that will be the primary determinant of height and not the number of storeys.</p> <p>(v) A basement which is substantially underground (i.e. in excess of 50% below natural ground level (NGL) and used solely for parking purposes (and such incidental caretaker, plant/equipment, storerooms (subject to (z) below) and security personnel ablutions as may be necessary for the proper functioning of the overall site's development) shall not be construed as a storey.</p> <p>(w) The Height of any site within the Precinct may be amended as provided for in (s) above, provided such amendment has the support, in writing, of the Design Review Panel. The Design Review Panel may recommend additional height beyond the indicated heights referred to in (h) above to a maximum of 7m more than the designated height value provided specific design merit in each case is taken into account.</p> <p>(x) Parking areas (covered and uncovered) shall not be included in FAR and coverage calculations but will be included within the building height envelope where such parking levels do not constitute <i>bona fide</i> parking basements as contemplated in (v) above.</p> <p>(y) Awnings, canopies, arbours, colonnades, balconies, or any other similar structure within the sidewalk area and storerooms as provided for in (z) below, shall not be included in FAR calculations.</p> <p>(z) In the case of residential buildings, each unit may be entitled to a storeroom (whether attached to the unit or remote from it) not exceeding 6m<sup>2</sup>, which shall not be included in floor area (bulk) calculations, provided that such storerooms are not consolidated into larger units nor used in any way for commercial purposes.</p> <p>(aa) Building Line = nil unless otherwise indicated on a Precinct Plan.</p> <p>(bb) Side and Rear space = nil unless otherwise indicated on a Precinct Plan.</p> <p>(cc) Every site shall be subject to a Build-To line, build-within zone or Building restriction area as detailed in the Precinct Plan as envisaged in (d) above. The boundary of the site abutting a street or streets shall be regarded as a Build-To line on which a minimum of 90% of a building's street-facing façade must be built. This does not include overhanging elements such as balconies, eaves etc. which may extend beyond the Build-To line and the street boundary, subject to approval by the Design Review Panel and formalisation of an appropriate encroachment agreement.</p> <p>(dd) In respect of a Fuelling and Service Station being developed on any site within the Precinct (as may be provided for in the Precinct Plan as contemplated in (d) above), such facility may constitute no more than 25% of the total floor area used on the site, unless agreed to by the Primary Developer, and must be an integral part of the building developed on the site. Such use/building shall be subject to specific design and planning controls as stipulated by the Primary Developer.</p>		

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<p><b>THE PURPOSE OF THIS ZONE WILL BE TO PROVIDE FOR A SUSTAINABLE MIXED-USE URBAN DEVELOPMENT BASED ON SMART CITY PRINCIPLES AND SET TO ACCOMMODATE A WIDE RANGE OF SHOPS (RETAIL), OFFICES, RECREATIONAL, ENTERTAINMENT, TOURISM, RESIDENTIAL AND BUSINESS AND COMMERCIAL RELATED ACTIVITIES</b></p>		
<p align="center"><b>PRECINCT ONE – WESTOWN URBAN CORE</b></p>		
<p>(ee) A caretaker's flat not exceeding 200m<sup>2</sup> shall be permitted on any site within Precinct One.</p> <p>(ff) Parking provisions, and requirements, within this zone shall be detailed in each of the Precinct Plans and shall be subject to the approval of the Municipality. Such provisions may include the allocation and reservation (in a manner approved by the Municipality's Head: Development Planning and Management) of no more than 75% of the required number of parking bays (as determined in the Precinct Plan) for any site within a Precinct Plan, on any other site within the same block or Precinct as that particular site.</p> <p>(gg) The parking provisions and requirements, as detailed in the Precinct Plan may be relaxed for any specific use or development only with the approval of the Head: Development Planning and Management and subject to acceptance of the Design Review Panel.</p> <p>(hh) The Municipality will be responsible for approving all Building Plans with the provision that no Building Plan may be submitted to the Municipality for approval unless such Plan(s) have been reviewed and accepted, in writing, by the Design Review Panel.</p> <p>(ii) Building Plans shall only be considered by the Municipality provided that they are accompanied by written confirmation from the Management Association and by a Traffic Impact Statement (TIS) that also assesses and includes the latest cumulative quantum of development rights (bulk floor area) developed to that date together with the latest cumulative total of vehicle trips generated to that date, as per item (k) above, as verified by a Professional Traffic Engineer.</p> <p>(ji) A Management Association shall be formed for the Precinct (Westown Urban Core), and every site owner and occupier shall belong to, ascribe to the objects of, abide by, and be bound by, the requirements of this Association.</p>		

## **ADOPTED.**

### 3.8 Adoption of the Annual Review of the eThekweni Municipal Land Use Scheme Comprising of Five Sub-Schemes: Central, North, South, Inner West and Outer West (21/7/R):

(Page 260 : Economic Development and Planning Committee - Agenda 2023-06-26)

Authority is sought for approval for the adoption of the Annual Review of the eThekweni Municipal Land Use Scheme (EMLUS). The Scheme is comprised of five Sub-Schemes namely: Central, North, South, Inner West and Outer West and all the land use regulations pertaining to those areas.

The Department of Development Planning and more specifically the Land Use Management Branch annually embarks on a process to review its Land Use Scheme in line with Section 19 (1) of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021). The review of the eThekweni Municipal Land Use Scheme is to ensure the alignment of terminology, processes and development standards across the Municipality.

The Annual Scheme review seeks to respond to planning trends highlighted during the year that need to be included in or amended in existing sections of the Land Use Scheme, in order to keep the Scheme relevant, and also to implement recommendations of planning projects undertaken and incorporate them into the Scheme.

It was noted that the review of this Scheme is based on the need to remain proactive in order to facilitate development and growing the Municipality, while at the same time giving full effect to the Municipality's vision of creating a Caring and Liveable City. The proposed Scheme review highlights will include Medical Offices under the Exemptions Clause, Bus and taxi Depot and Transport Depot, Space about Buildings, Precinct Plan Amendment, and New Intermediate Residential zones for all five Sub-Schemes.

It was subsequently

COMMITTEE RECOMMENDS:

- 3.8.1 In terms of Section 19 of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law 2021 (Municipal Notice 95 of 2021) and the Spatial Planning and Land Use Management Act No. 16 of 2013; the Annual Review of the eThekweni Municipal Land Use Scheme (EMLUS) which is comprised of five Planning Regions: namely the Central, North, South, Inner West and Outer West and all the Land Use Regulations pertaining to these areas be adopted for the following reasons:
- 3.8.1.1 That the Annual Scheme Review ensures compliance with the Spatial Planning and Land Use Management Act No.16 of 2013 in that it gives effect to the Development Principles, as described in Chapter 2, Clause 7(a)(b)(c)(d) and (e); and Chapter 5, Land Use Management, Clause 24 (1) of the Spatial Planning and Land Use Management Act No. 16 of 2013
- 3.8.1.2 That the reviewed Land Use Scheme is in alignment with the Spatial Development Framework of the Municipality and further refinement will be made on an ongoing basis.
- 3.8.1.3 That this Annual Scheme Review responds to the over-changing development pressure and trends within the Municipality.

**ADOPTED.**

DIRECT EXCO REPORTS

4. PROGRESS REPORT ON IMPLEMENTATION OF THE 2022 PROVINCIAL EXECUTIVE COUNCIL LEKGOTLA RESOLUTIONS BY MUNICIPALITIES (4/3/2)

(Page 5)

In terms of the resolutions adopted by the Provincial Executive Council at its 2022 Lekgotla, eThekweni Municipality is one of the Municipalities expected to submit quarterly progress report on the status of Senior Management engagements within the Municipality. In response thereof, the Municipality is expected to submit quarterly progress reports to the MEC for Cooperative Governance and Traditional Affairs.

The MEC recently reminded the Municipality of this commitment and thus a need for the Municipal Council to reaffirm the COGTA Circular in this regard and also note progress report to be submitted to the MEC. In terms of the requirements, the MEC requires evidence that the Municipal Council deliberated and noted this matter.

Accordingly, the Council is requested to note update on the Senior Management engagement as per the recommendations detailed below.

COMMITTEE RECOMMENDS:

- 4.1 That the Council notes a Circular issued by the MEC for Cooperative Governance and Traditional Affairs (COGTA), circulated with the Council Agenda, comprising the 2022 Provincial Executive Council (PEC) Lekgotla Resolutions to be complied with by the Municipalities regarding the submission of quarterly progress reports

on the engagement of Senior Management, in particular, the status on the filling of vacant posts.

- 4.2 That the Council notes that, in terms of the PEC resolutions, the Municipalities are required to fill vacant positions within a period of six (06) months of the post becoming vacant, with remedial actions together with specific timeframes to be submitted to COGTA in the event the PEC deadline will not be achieved, otherwise, in the absence of a comprehensive update, the MEC will have no option but to commence with the process of invoking Section 139(b) of the Constitution of the Republic of South Africa to take over the recruitment process.
- 4.3 That the Council notes that there has been no movement of Senior Management between the eThekweni Municipality and other Municipalities within the Province, and that this outcome will be reported as such to the MEC for COGTA, as per the PEC requirements.
- 4.4 That the Council notes update on the status of vacant posts of Senior Management, as reflected in the table below, and which update report is to be submitted to the MEC for COGTA as per the PEC requirements:

No.	Vacant Position	Period Vacant	Funding Availability & Recruitment Status	Remedial Action & Timeframes
1.	Chief Operations Officer	08 Months	The post is fully funded, and was advertised in December 2020. Subsequently, the process was held in abeyance pending the amendment of the Organogram, as per the requirements in terms of the Municipal Staff Regulations, 2021.	The deadline for the eThekweni Municipality to finalise amendment to the Organogram is 31 December 2023.  It is considered prudent to set the 6-month deadline within which to fill this position to commence after the approval of the amended Organogram by the eThekweni Municipal Council.
2.	Deputy City Manager: Economic Development & Planning	05 Months	The post is fully funded, and was advertised in December 2020, but subsequently put on hold pending the completion and approval of the amended Organogram.	An appeal is to align the 6-month timeframe within which to fill the post with the approval of the amended Organogram.
3.	Deputy City Manager: Human Settlements; Engineering & Transport	01 Month	The post is fully funded, but a similar scenario prevails in terms of awaiting Council approval of the amended Organogram.	Timeframe to be accordingly aligned with the Council approval of the amended Organogram.

- 4.5 That the Council notes that the status report on the engagement of Senior Management within the eThekweni Municipality will be submitted to the District Development Model Governance State Capacity and Institutional Development (DDM GSCID) Cluster, as per the requirement in terms of the 2022 PEC Lekgotla Resolutions, and it being recorded that the next meeting of the DDM GSCID is scheduled for 24 July 2023.
- 4.6 That the update presented on the status of the engagement of Senior Management within the eThekweni Municipality be submitted to the MEC for COGTA, as per the requirement in terms of the 2022 PEC Lekgotla Resolutions.



No.	Details of Manager	Employment Contract Commencement Date	Employment Contract Expiry Date	Recruitment & Selection Process Update (Where Applicable)
1.	City Manager <b>Mr TB Mbhele</b>	01 October 2022	30 September 2027	N/A
2.	Chief Operations Officer <b>(Vacant)</b>			COO post become vacant on 01 October 2022 following the promotion of Mr TB Mbhele, the post was advertised on 20 December 2022, however it has been delayed until the First Page of the organogram is updated and aligned with the Municipal Staff Regulations dated 20 September 2021.
3.	Deputy City Manager: Governance & International Relations <b>Mr S Cele</b>	16 March 1998	30 May 2026	N/A
4.	Deputy City Manager: Corporate & Human Capital <b>Mrs K Makhathini</b>	01 April 2021	31 March 2026	N/A
5.	Deputy City Manager: Finance <b>Dr S Mnguni</b>	01 August 2021	31 July 2026	N/A
6.	Deputy City Manager: Trading Services <b>Mr S Makhanya</b>	01 October 2020	30 September 2025	N/A
7.	Deputy City Manager: Community & Emergency Services <b>Dr M Gumede</b>	01 May 2020	30 April 2025	N/A
8.	Deputy City Manager: Human Settlements; Engineering & Transport <b>(Vacant)</b>			DCM: HSET post become vacant on 01 May 2023 following the end of contract of Ms B Khanyile, the post is not advertised until the First Page of the organogram is updated and aligned with the Municipal Staff Regulations dated 20 September 2021.
9.	Deputy City Manager: Economic Development & Planning <b>(Vacant)</b>			DCM: ECOD post become vacant on 01 January 2023 following the end of contract of Mr P Sithole, the post was not advertised on 20 December 2022, however it has been delayed until the First Page of the organogram is updated and aligned with the Municipal Staff Regulations dated 20 September 2021.

**NOTED.**

5. INTERIM REPORT ON DISRUPTIVE RAINFALL REPORT OCCURRED 27 JUNE 2023 (25/1/3/R)

(Page L87)

The City of eThekweni experienced disruptive heavy rainfall on 27 June 2023. This followed alerts by the South African Weather Services together with the eThekweni Forecast Early Warning Systems (FEWS) regarding localized floods in some areas of eThekweni. The heavy rainfall resulted to loss of human lives and infrastructural damages. As such, some parts of the City experienced road damages, sewer spillage to City beaches leading to increased level of e-coli, structural damages and water networks having been affected. Some residents have also been displaced due to floods and are accommodated in temporary shelters.

Various interventions have been made to provide social relief and interim measures to provide access routes and urgent repair to infrastructural damages. Through collaborative measures, Municipal teams were able to recover missing people. Application for burial assistance to support bereaved families have been submitted to the Office of the Mayor for processing.

In terms of damages quantified arising from the recent attack by tornado, the report reveals that assessments and verification of damaged infrastructure have been conducted by Municipal departments to establish costs estimate to undertake relevant repairs and to rehabilitate the infrastructure. Below is the summary of the costs implications by each Unit affected:

<b>Department</b>	<b>Estimated Cost</b>
Engineering	R 114 800 000.00
Human Settlements	R 83 411 397.60
Health	R 1 383 000.00
Parks, Recreation and Culture	R 10 665 000.00
Water and Sanitation	R 75 000 000.00
Electricity	R 2 186 000.00
<b>Total</b>	<b>R 287 445 397.60</b>

That a request has also been made to all Municipalities to set aside disaster funds to be utilised for immediate response to disasters rather than awaiting long processes to unfold.

During discussions at the Executive Committee level, Members acknowledged positive contributions made by various stakeholders, including all 3 spheres of government, with government leadership in this regard descending to the shores of eThekweni, in particular the area of Inanda, which was hardest hit by the storm damages. It being emphasized that storm disasters be attended to as a collective rather than focusing on different political dynamics.

Words of appreciation were also extended to private business and Non-Profit Organisations for being generous in supporting the floods victims. Reference was also made to floods victims previously overlooked in terms of support granted, a request being made that during the storm disaster the eThekweni Teams from various departments be deployed to conduct inspection Municipal-wide without focusing solely in the area which is reported to be affected badly. However, that the Municipal leadership should implement vigorous attempts to prevent victims from rebuilding in flood planes. That follow up will be made to establish the alleged omission of the floods victims during the previous storm disasters in terms of social relief distribution.

Emphasis was put on the need to implement collaborative efforts going forward to assist communities affected. The attention of the Committee was then drawn to the fact that the City's infrastructure is unable to withstand current climate conditions, not necessarily because of being inadequate, but because of the nature of storms experienced. As such, a need for a turnaround strategy in terms of putting in place infrastructure to withstand changing climate conditions was overemphasized.

Members supported and greatly appreciated the view of setting aside budget for disaster incidents, expressing a need to inject more funding for this purpose.

That this will limit reprioritization of funds from critical Municipal projects every time the disaster hit the City of eThekweni.

Upon enquiry made with regard to the 2019 decision to conduct audit on the state of the City's stormwater infrastructure, an undertaking was made to follow this matter up. Confirmation was then given that progress report thereof will be submitted to the future meetings of the Executive Committee. However, Members and the public at large were also sensitized to continue to raise awareness on the negative impact of disposing foreign substances or waste in Municipal drainage systems. Mention being made that some of the challenges emanates from this conduct by large companies rather than the City's infrastructure. Media was then encouraged to also support the Municipality to create awareness in this regard. It being also advised that the services undertaken under programmes such as Sihlanzimvelo will be utilized to remove blockages.

Management acknowledged though a need to improve the manner in which the Municipality respond to disasters within the City and confirmed that this matter will be analyzed accordingly to strengthen the processes.

The Committee then having received and analyzed the impact of the recent storms, it was agreed that where flood victims are not provided with food supply in the evenings, consideration be given to extending services of the existing soup kitchens to ensure flood victims are catered for.

Also, that consideration be given to exempt the Municipality from certain procurement process to achieve quick turnaround time to respond to destitute and floods victims. In this regard a recommendation was made that the eThekweni delegation, under the leadership of His Worship the Mayor should consider engaging National Treasury to agree on processes to be implemented within applicable legislations to enable the Municipality to fasttrack procurement processes in the event of storm damages.

With the Committee being united on measures to be implemented to support flood victims and proposed strengthening of floods disaster response mechanisms,

#### COMMITTEE RECOMMENDS:

- 5.1 That Council notes the preliminary report which provide a comprehensive report on response measures undertaken and inter-departmental interventions in response to the damages caused by the disruptive rainfall that occurred in eThekweni Municipality on 27 June 2023, it being recorded that a report detailed infrastructure damages and estimated financial costs to repair damages, with the other details contained in the report of the City Manager dated 2023-07-06, it being also recorded that the report will be updated as per the developments in certain elements.
- 5.2 That authority be granted for the Departments to start their procurement process to rehabilitate damaged infrastructure.
- 5.3 That authority be granted for the City Manager and the Deputy City Manager: Finance to reprioritise budgets to fund the cost of damages reported by Departments as per the recommendation of .2 above.
- 5.4 That the Mayoral Parlour provide burial assistance to the floods victims with this initiative falling under the jurisdiction of this office

- 5.5 That Council notes that the preliminary report will be submitted to the National Disaster Management Center through the Provincial Disaster Management Center for further support and interventions required.
- 5.6 That authority be granted to the Deputy City Manager: Finance to identify, prioritize and ring-fence funding to be utilised for incident/disaster response.

**Infrastructure damages and estimated Costs:**

Department	Estimate Costs
Engineering	R114 800 000.00
Human Settlements	R83 411 397.60
Health	R1 383 000.00
Parks, Recreation and Culture	R10 665 000.00
Water and Sanitation	R75 000 000.00
Electricity	R2 186 000.00
<b>TOTAL</b>	<b>R287 445 397.60</b>

Speaking on the matter, the DA submitted that the storms experienced exposed dilapidated infrastructure of the Municipality, it being indicated that proactive infrastructural maintenance could have resulted in some of the damages being avoided. With the recent attack by tornado, the DA indicated that communities were dependent on the assistance from neighborhood watch; Non-Profit Organisations (NPOs); and Non-Governmental Organisations (NGOs) for basic needs. This was considered signaling unpreparedness by the Municipal Disaster Management Team to respond to disaster. The periodic unavailability of the Municipal Call Centres during the disaster was considered concerning. Overall, it was recommended that audit be conducted on the state of the City's stormwater infrastructure and improve law enforcement to prevent buildings on flood planes. That development of dynamic infrastructure maintenance is recommended. A plea was then made that victims be treated with dignity during disasters.

Thereafter, the ANC encouraged the spirit of unity during the moments of disaster with all Political Parties and City stakeholders collaborating resources and rallying behind sourcing help to support victims. It was acknowledged that the Disaster Management Strategy and Plan were due for review to achieve real time responsiveness.

In noting bottlenecks preventing swift response by the Municipality during disaster, the Council was informed of plans to engage National Treasury to relax some of the clauses of the Supply Chain Management Regulations to inform quick turnaround time and decisive decision-making during the disaster. Also, that authority has been granted to ring-fence funds to enable the Disaster Management Unit to prioritize key disaster relief interventions when applicable. That the current legislative provisions for instance prevents bulk purchases of items required to provide basic social relief during disasters, hence, the support by the NGOs and NPOs. Mention being made that some of these organisations receive funding from the Municipality, therefore, the assistance is in away reciprocating Municipal initiatives as per the collaborative initiatives agreed to.

Accordingly, the above recommendations of the Executive Committee; **5.1** and **5.5** were **NOTED**, with **5.2, 5.3, 5.4** and **5.6; being ADOPTED.**

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

Following the tabling of the Report by His Worship, time being 19h36, the DA requested fifteen (15) minutes for caucus, citing that the fourth report of the Executive Committee is laid on table in this meeting, thus insufficient time to interrogate items. Subsequently, the ANC also requested ten (10) minutes for caucus. The caucuses were accordingly granted by the Acting Speaker. The meeting thereafter resumed at 20h07.

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## FOURTH REPORT OF THE EXECUTIVE COMMITTEE

(Special meeting held 2023-07-13)

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

ABSENT : Executive Committee Members ZP Myeni (Deputy Mayor) (Leave-Indisposed), OB Mvubu (Leave-Personal Commitments) and MS Nkosi (Leave- Personal Commitments)

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### 1. REQUEST FOR APPROVAL OF MANDELA DAY PROGRAMMES IN COMMEMMORATION OF THE LIFE OF DR NR MANDELA DAY IN VARIOUS WARDS AND FOSTER CARE FACILITIES (12/9/R)

(Page 1)

Dr. Nelson Rolihlahla Mandela is a global icon who played a leading role in and support for Africa's struggle for liberation and unity, including his outstanding contribution to the creation of a non-racial and non-sexist country. In this regard, an annual Mandela Day was established to commemorate his life and legacy on his birthday, 18 July. This day calls for individuals, communities and organisations to take time to reflect on his values and principles to make positive impact in their respective communities. Also, that this day seeks to inspire people to embrace values of democracy and contribute towards the ideals of ensuring a just and fair society. In this regard, authority is sought to implement the Mandela Day programs in various Wards and foster care facilities.

The activities to be undertaken include clean-up programs, painting jobs in various schools, visitations to foster care facilities, orphanage homes and hosting of a lecture on Dr. Nelson Mandela. Confirmation was then given that funding in the amount

of R1 200 000.00 (One Million, Two Hundred Thousand Rand) has been secured to cater for planned activities.

During discussions, the significance of the day in accelerating service delivery towards the betterment of lives of the people was emphasized. That to promote the vision of Nelson Mandela, celebrations of the day should be extended to other critical and effective service delivery interventions.

This being an annual event, Members were unanimous in that there should be timeous planning and submission of the item for consideration by the relevant Committees. The submission of the item at an eleventh hour was considered inappropriate, mention being made that some of the programmes might require the procurement and the timing being questionable then since the programmes commence in a few days' time. Also, that there are no specifics given in terms of the Wards and other facilities to be accommodated.

The late submission then was considered excluding certain Council members from participating in the programme and also from playing effective oversight role over this matter.

In conclusion, the Committee was unanimous in that an Annual Calendar of Events be developed to prompt timeous planning and approvals by the Council. That the commemoration of the Mandela Day is magnitude in nature given the dignity and legacy of Dr Nelson Mandela. That the planning should include various stakeholders, with Council leveraging funding where practical.

The Committee was informed of the planning meeting scheduled to finalise logistical arrangement and that detailed information with respect to the programmes will then be given following the outcome of the planning meeting.

In the absence of specifics in relation to the Wards and facilities to be accommodated in this programme, the DA abstained on the matter. With the ANC being in support of the matter,

#### COMMITTEE RECOMMENDS:

- 1.1 That, in acknowledging contribution and legacy created by the first President of South Africa in the era of democracy, Dr Nelson Mandela, and honouring his life through participating in the 67 minutes of community services during his birthday on 18 July, Council approves the Mandela Day Programmes listed under financial implications below, and to be undertaken in various Wards and other facilities, at an estimated cost of R1 200 000.00 (One Million Two Hundred Thousand Rand), provided for in the 2023-24 financial year budget.
- 1.2 That, subject to the approval of .1 above, authority be granted for the Deputy City Manager: Community and Emergency Services to facilitate the procurement of goods and services following applicable Supply Chain Management processes.

#### **Financial Implications:**

Item	Programme	No. of Programmes	Amount
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Various Cleaning Equipment's and paint	Various cleanup and painting campaigns (schools, orphanages)	6	R300 000.00
Catering/ food packs	Mandela Lectures and visits to kids foster care	4	R200 000.00
Gifts for orphans and foster care facilities/ donations/ essential items	Visits to different foster care facilities, orphanages and children care homes	8	R350 000.00
Sound, stage and generator	Mandela Day Lecture and Life of Mandela commemoration	3	R150 000.00
Marquees	Mandela Day Lecture and Life of Mandela commemoration	4	R200 000.00
<b>TOTAL</b>			<b>R1 200 000.00</b>

FC No.: 32/301

Vote No.: 14001 Various

Provided for in 2023/2024

Commenting on the matter, the DA expressed reservations, with the submission of the item at an eleventh hour being considered inappropriate, mention being made that some of the Programmes might require activation of the procurement process, hence timing being questionable since the Programmes commences in few days' time. Inadequate planning and coordination were considered tainting commemoration of the Mandela Day. In view of prevailing uncertainties with regard to the ability to achieve the necessary compliance requirements, the DA dissented on this matter.

Also commenting on the report, the EFF supported the initiative to commemorate the Mandela Day. However, to achieve cost-effectiveness, the Party recommended the use of Municipal-owned venues to host the Mandela Day Lecture and Life of Mandela commemoration rather than hiring venues together with related furniture and equipment. It being further recommended that funds which were to be used for such could then be donated to the organisations to be visited, including foster care facilities and orphanages. The EFF then moved a formal amendment in this regard.

Continuing with discussion, the IFP whilst in support of the recommendations, expressed concern that the specifics in relation to the Wards and facilities to be accommodated in this Programme, were not reflected on the report to enable Councillors to disseminate accurate information to their constituencies. Meanwhile, the ActionSA and the APF registered their support on the proposed amendment by the EFF, in terms of reallocating funds to donate to establishments dealing with social work.

Thereafter, the ANC noted the inputs submitted, also indicating that in other Wards, halls were not available to cater for the Programmes. All Municipal Units were then encouraged to also prioritise Mandela Day activities. Information was also given that the intention of the Mandela Lecture was for people to draw lessons, inspirations, principles etc from the life of the global icon, it being acknowledged however, that costs be managed accordingly where practical.

Therefore, in view of the EFF proposing an amendment, being already discussed, a **MOTION TO AMEND** was submitted as follows: -

In terms of Rule of Order By-Law 20(4), Councillor K Khambule seconded by Councillor V Ndlovu, both of EFF moved as a procedural motion to amend the above recommendations by addition of the words at the end of recommendation 1.2 to read as follows:

*“1.2 ..... that Community Halls be utilised as the venues for the Mandela Day Lectures to then donate funds set aside for the hire of marquees; related furniture and equipment, to foster care facilities and orphanages.”*

**CARRIED**

As some members were not in support of the Motion to Amend, the matter was put to the vote. With 172 Councillors present, 125 Councillors (ANC - 80, EFF - 18, IFP- 12, Action SA -02, ABC - 02; ACC - 01, ACDP - 00; DLC - 00; ADEC - 01; APF - 01; AIC- 02; ATM - 01; ALJAMAH - 00; JEP -01; KZNI - 01, MF - 01, MOSA- 00, NFP - 00; PFP - 00, PRM - 01 , TA- 00 and UIM - 01) voted in favour of the amendment and 01 VF Plus Councillor voted against the amendment. The DA (46) abstained on the matter.

Therefore, the above-mentioned Motion to Amend was, by the majority vote, **CARRIED**.

Discussion thereafter reverted back to the substantive matter, wherein, some members were not in support of the recommendations, therefore, the matter was put to the vote. With 172 Councillors present, 125 Councillors (ANC - 80, EFF - 18, IFP- 12, Action SA -02, ABC - 02; ACC - 01, ACDP - 00; DLC - 00; ADEC - 01; APF - 01; AIC- 02; ATM - 01; ALJAMAH - 00; JEP -01; KZNI - 01, MF - 01, MOSA- 00, NFP - 00; PFP - 00, PRM - 01 , TA- 00 and UIM - 01) voted in favour of the recommendations. The 47 Councillors (DA- 46 and VF Plus - 01) voted against the matter.

In this regard, the above recommendations were by the majority vote, **ADOPTED** and subject to an amendment that consideration be given to utilising Community Halls as the venue for the Mandela Day lectures to then donate funds set aside for the hire of marquees; related furniture and equipment, to foster care facilities and orphanages.

2. **REQUEST FOR AUTHORITY TO PARTNER WITH THE NATIONAL DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS TO HOST THE 2023 BRICS URBANIZATION SUMMIT (21/5/1/R)**

(Page 4)

BRICS is an association of five (05) major emerging economies, namely, Brazil; Russia; India; China; and South Africa formed in 2006. BRICS members are all developing or newly industrialized countries which are also G-20 members.

The forum was established with the objective of bringing together various stakeholders from the BRICS countries, including BRICS Ministerial delegations; representatives from local governments; policymakers and other stakeholders to place key issues of urbanization on their agenda for action.



It is pleasing to note that BRICS has chosen to convene in South Africa under the theme “Urban Resilience for Sustainable Urban Development” This will be a two-day Summit focusing on the impact of urban resilience in urban planning. The hosting of the Summit in South Africa presents the opportunity for the Municipality to profile its efforts to building resilience in the face of compounding shocking disasters and present its state of preparedness and responses to climate change.

The National Government is contributing an amount of R10 000 000.00 (Ten Million Rand) towards this Summit, and with the eThekweni Municipality contributing an amount of R2 500 000.00 (Two Million Five Hundred Thousand Rand). This contribution was considered not huge when compared to the benefits of being in the world-map with international cities volunteering to focus their attention to the City of eThekweni. That the costs of recovering from the disaster are huge, beyond what the City will spend for the Summit.

The DA was not pleased with the spent per person for just two (02) days, however, with the ANC acknowledging the impact to be brought about by the Summit, including positioning the City of eThekweni in the world-map, the Summit was supported.

Accordingly,

#### COMMITTEE RECOMMENDS:

- 2.1 That Council approves partnership between the eThekweni Municipality and the National Department of Cooperative Governance and Traditional Affairs to host the BRICS Urbanization Summit on 26 and 27 July 2023 at Inkosi Albert Luthuli International Convention Centre, under the theme Urban Resilience for Sustainable Urban Development, and with the eThekweni Municipality to contribute an amount of R2 500 000.00 (Two Million Five Hundred Thousand Rand), it being recorded this Summit is of significance given a series of natural disasters experienced by the City of eThekweni and therefore the importance to embrace support being offered by the global cities to strengthen the city’s strategies to respond to climate change.
- 2.2 That Council notes the City of eThekweni has been given two (02) slots during the BRICS Summit to use to profile the City; its priorities; and plans to respond to climate change, also noting events to be hosted by the City, as reflected in the table below:

<b>Reception Gala Dinner</b>	The Department of Cooperative Governance and Traditional Affairs has formally requested eThekweni Municipality to organise a Welcome Gala Dinner, as the Host City. The Gala Dinner is proposed to take place 26 July 2023, at the Inkosi Albert Luthuli International Convention Centre (ICC). A number of Five Hundred and Eight (580) guests are expected to attend the Gala Dinner. This include the BRICS Mayors that will be attending the Mayor’s Breakfast Session the following day.
<b>BRICS Mayors’ Breakfast Session</b>	The eThekweni Municipality in partnership with the UN Habitat will co-host the BRICS Mayors’ Breakfast Session on 27 July 2023, at the ICC. A number of Eighty (80) delegates are expected to attend the Breakfast Session.

#### Financial Implications:

Funds Required	Amount	Item description	Funded From	Amount

32001.22710.30.12120.00 00.83670-1.0010	R1 500 000.00	Hire of Venue	32001.22710.30.1212 0.0000.4700.0010	R1 500 000.00
34002.22710.30.12120.00 00.83670-1.0010	R570 000.00	Hire of Venue	34002.10970.12120. 0000.MRC01.0010	R1 000 000.00
34002.16325.12120.0000. 83670-1.0010	R170 000 .00	Promotional items		
34002.21920.12120.0000. 83670-1.0010	R33 000.00	Ground Transportation for Site Visits		
34002.21805.12120.0000. 83670-1.0010	R227 000.00	Events		

FC OSM : 2024/12/03

FC GOV: 2024/06/02

Estimated itemised cost for BRICS Mayors' Event

ITEM	ESTIMATED COST
Reception Gala Dinner	R1 500 000.00
Durban ICC Breakfast Full Package	R570 000.00
Promotional and Conference Material	R170 000.00
Ground Transportation for Site Visits	R33 000.00
Travel and Accommodation for knowledge experts x 4	R227 000.00

**Commenting on the matter, the EFF and the IFP supported the recommendations, however the IFP cited that budget breakdown in this regard be further scrutinized at the Support Committee level. The Municipality was encouraged to strengthen initiatives aimed at keeping the City clean to attract more international events.**

**Thereafter, the ANC supported the matter and mentioned that this was an important event, whereby the Municipality will partner with the National Department of Cooperative Governance and Traditional Affairs to host the 2023 BRICS Urbanization Summit to deliberate on various critical issues. That the hosting of this Summit in South Africa presents opportunity for the Municipality to profile its efforts to building resilience in the face of compounding shocking disasters and present its state of preparedness and responses to climate change.**

**However, as some members were not in support of the recommendations, the matter was put to the vote. With 177 Councillors present, 131 Councillors (ANC - 85, EFF – 18, IFP- 12, Action SA -02, ABC – 02; ACC – 01, ACDP – 00; DLC – 00; ADEC – 01; APF – 01; AIC- 02; ATM - 01; ALJAMAH – 00; JEP -01; KZNI – 01, MF – 01, MOSA- 00, NFP - 00; PFP – 00, PRM – 01, TA- 00, UIM – 01 and VF Plus - 01) voted in favour of the recommendations. 46 DA Councillors abstained on the matter.**

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

(At this stage of the proceedings, and in the absence of the Chairperson, Councillor CB Dlamini, in his capacity as the Member of the Municipal Public Accounts Committee, presented the following report of the Committee).

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

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1. **SECOND REPORT ON THE UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE DURING MULTIPLE FINANCIAL YEARS 2017/2018 TO DATE (2022/2023)**

### **BACKGROUND**

Section 32(2) of the Local Government: Municipal Finance Management Act No. 56 of 2003 provides that a Municipality must recover Unauthorised; Irregular; Fruitless and Wasteful Expenditure (UIFWE), except where the unauthorised expenditure is regularized through an adjustments budget, or where the expenditure is deemed to be irrecoverable following an investigation into the expenditure incurred.

The section reads as follows:

“A Municipality must recover Unauthorised, Irregular or Fruitless and Wasteful Expenditure from the person liable for that expenditure unless the expenditure—

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

### **ANALYSIS OF UIFW CASES FINALISED**

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

- A report was prepared by the Unit that incurred irregular expenditure after investigation by the said Unit. The report disclosed the deviation from Supply Chain Management Policy, the reasons for the deviation and the value of the expenditure.
- The report together with the supporting documents were submitted to the Internal Control Unit for review and thereafter were submitted to the Bid Adjudication Committee for noting purposes.
- The Internal Control Unit reviewed and applied its mind on the report and considered whether there was any value for money obtained by the Municipality, or any losses suffered by the municipality due to non-compliance detected using the following questions:

- a) The nature of the irregularity
- b) Whether or not the contracts followed the SCM public tender process
- c) Whether or not the Unit Head had certified that value for money was received
- d) Whether or not the Unit Head has confirmed that goods or services were delivered as per contract specifications and initial contract rates
- e) Whether corrective action needed to be undertaken
- f) Whether preventative measures were required to be implemented and the status of such actions; where deemed necessary
  - Irregularities were identified during the audit by the Auditor-General South Africa as well as irregularities identified through investigations by the City Integrity & Investigations Unit.

Cumulative UIFW expenditure totaling **R769 365 605.16** (Seven Hundred and Sixty Nine Million Three Hundred and Sixty Five Thousand Six Hundred and Five Rand and Sixteen Cents) was identified by the Internal Control Unit as contained in Annexure A to this report.

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

With the MPAC having satisfied itself that the UIFWE processes have been complied with accordingly and officials involved having been interviewed to present their cases,

#### COMMITTEE RECOMMENDS:

- 1.1 That in compliance with Section 32(2) of the Local Government: Municipal Finance Management Act No. 56 of 2003, (LG: MFMA), Unauthorised; Irregular; Fruitless and Wasteful Expenditure (UIFWE) totaling **R769 365 605.16** (Seven Hundred and Sixty Nine Million Three Hundred and Sixty Five Thousand Six Hundred and Five Rand and Sixteen Cents) as per the details contained in 'Annexure A' of this report, be certified as irrecoverable and written-off by Council, based on the outcome of the investigations of conducted in this regard.
- 1.2 That it be noted that any consequence management recommendations will be dealt with in accordance with the Council Policy in relation to financial misconduct and, with an oversight role in this regard being played by the Disciplinary Board on Financial Misconduct.
- 1.3 That the City Manager be instructed to ensure that all disciplinary matters arising from this report, be expedited and the progress report thereof, be brought back to Council on a monthly basis until they are all finalised.

Councillor CB Dlamini, member of the MPAC, mentioned that the Municipality must recover the UIFWE, except where the unauthorised expenditure is regularized through adjustments budget, or where the expenditure is deemed to be irrecoverable following an investigation into the expenditure incurred. In this regard, it was reported that the MPAC has conducted investigation on UIFWE, and a recommendation is now submitted before the Council to write-off the UIFWE totaling R769 365 605.16 (Seven Hundred and Sixty-Nine Million Three Hundred and Sixty Five Thousand Six Hundred and Five Rand Sixteen Cents), certified as irrecoverable, based on the outcome the investigations conducted in this regard.

Continuing with his report, Councillor Dlamini emphasised that the write-off practice is a norm applicable to Municipalities across the Country, and implemented within the confines of applicable legislation. That consequence management is also implemented within the mandate of the Council-established Financial Misconduct Disciplinary Board, which is due to submit periodic reports to Council on cases investigated.

Whereafter, the DA noted the report, however stressed that the Municipality still needs to do more to curb the UIFWE, also stating that necessary support be provided to the City Integrity and Investigations Unit to enable the Unit to perform its duties speedily. Also, that the Supply Chain Management Unit must perform to its optimum level to reduce Section 36 awards. On the issue of consequence management, emphasis was put on the importance of finalising cases referred for further investigation, and for the Council to play effective oversight role in this regard.

Also commenting on the matter, the EFF supported initiatives aimed at preventing and elimination corruption, with cases submitted to the Financial Misconduct Disciplinary Board considered to draft for longer periods. The EFF then dissented on this matter, until such time that there is progress in the implementation of consequence management and the institution of disciplinary proceedings where required with a view to recovering funds where practical.

The ADEC then concurred with the points raised by the EFF and submitted a Motion to Amend as follows: -

#### **MOTION TO AMEND**

In terms of Rule of Order By-Law 20(4), Councillor VG Reddy of ADEC seconded by Councillor MM Hlengwa of APF moved as a procedural motion to amend the above recommendations by adding the words at the end of recommendation 1.2 to read as follows; citing that this will eliminate what they viewed as deliberate delays in finalising cases submitted before the Financial Misconduct Disciplinary Board.

*“1.2 ..... , be finalised within one (01) month of the date of report and the report on the outcomes thereof, be submitted to MPAC and Council.”*

However, diverse views were subsequently submitted on the proposed amendment, wherein Councillor Dlamini, member of the MPAC unpacked the role and duties of the Committee as well as the processes in relation to the UIFWE. He then referred to robust discussions during the MPAC meetings, where the UIFWE cases are investigated thoroughly and obtain feedback on the

root cause; preventative measures going forward, and whether value for money has been obtained by the Municipality. That the decision to write-off is taken based on justifiable reasons, and acting in the best interest of the Municipality. Dlamini clarified that there was a clear distinction between the role of the MPAC and that of the Financial Misconduct Disciplinary Board, it being also taken into cognisance that the Board needs strengthening and capacitation to fastrack finalisation of cases.

During discussion, some Members submitted that the Council proceedings were open for any Councillor to raise views irrespective of the discussions at the Support Committee level. It was therefore recommended that transparency be exercised in dealing with this matter.

Given a motion to refer the item back, the ANC sought legal opinion in this regard to understand implications associated with timelines applicable in dealing with the UIFWE matters. In response, the Deputy Head: Litigation advised that the Financial Misconduct Disciplinary Board is the Committee established by Council, and therefore the MPAC cannot direct and issue instructions to the Board. However, it was mentioned that the MPAC can request update reports from the Board on cases being investigated and such updates to be also provided to the Council. The Deputy Head also advised that it would be impractical for the Board to conclude cases within a period of one (01) month given the magnitude of work per case investigated.

The IFP contributed on the matter advising that the MPAC recommends write-offs after the Committee having satisfied itself that value for money has been obtained, but that this does not take away the fact that the Units concerned have failed to comply with the normal supply chain management processes although there has been no misappropriation of public funds.

In view of the legal opinion, the ANC submitted a Motion to Amend as follows: -

#### **MOTION TO AMEND**

In terms of Rule of Order By-Law 20(4), Councillor NI Madlala seconded by Councillor ZR Sokhabase both of ANC moved as a procedural motion to amend the above recommendations by addition of recommendation 1.3 to read as follows:

*“1.3 That the City Manager be instructed to ensure that all disciplinary matters arising from this report, be expedited and the progress report thereof, be brought back to Council on a monthly basis until they are all finalised.”*

However, the ADEC felt that specific timeframe was still relevant to prompt finalisation of cases. The ANC then emphasised that the Board was an independent body which should be given flexibility to execute tasks according to the merits of each case. It being advised though that the Executive Committee has already conveyed the aspirations of Council with regard to fastracking finalisation of cases being investigated. That the Council should allow processes to unfold and provide the necessary support. The Council was informed of the frustrations cited by the Board as a result of delays experienced on case being subjected to investigation by the South African Police Service.

Notwithstanding the explanation provided, the ADEC; APF; EFF; and the ActionSA were all adamant that timeframe be attached to prevent orchestrated delays in finalising cases. In this regard, a reasonable timeframe was suggested, that of giving the Board three (03) to six (06) months within which to finalize cases at hand, subject to the proviso that where cases are not finalised within the stipulated period a report be provided thereon, citing the reasons for the delays.

Prior to entertaining further amendments made, the Acting Speaker afforded the City Manager opportunity to comment on the matter. The City Manager then stated that disciplinary processes are part of the core responsibilities of the Municipal Managers in terms of the Local Government: Municipal Systems Act No. 32 of 2002, as amended. He then clarified the UIFWE processes and how matters are dealt with by the MPAC. He indicated that not all UIFWEs relate to wrongdoing, and explaining the matter further, the City Manager cited an example where Departments act proactively to request authority to deviate from the normal procurement process and use Section 36, and which authority is granted by the City Manager after having satisfied himself that sound reasons for deviations have been outlined.

The attention being drawn that proactive steps coupled with approved deviations were necessary at times in view of delays experienced to receive grant funding from National Treasury while there are pressing needs to implement some of the projects. That even though deviation in this regard has been done for a good cause, the Auditor-General will flag the matter as irregular expenditure, citing that the team should have not proceeded with the project.

Explaining further, the City Manager mentioned that the same matter flagged is then referred to the MPAC, where it is processed and investigated. The MPAC as a collective will then satisfy themselves that there was value for money as the project was implemented accordingly, and with relevant signed off by Engineers etc, and there being no wrongdoing; therefore, the amount for the project being recommended to the Council for write-off. In this regard, the City Manager emphasised that the UIFWE reports being submitted to the Council were permissible in terms of the processes. The Council was also sensitised that if the process was not undertaken, the Municipality can accumulate the UIFWE amounting to billions of rands. That this will then still have a negative effect on the financial markets, particularly, investors and lenders.

Speaking on the concerns raised by the Council, including what is viewed as a slow pace in finalising disciplinary cases being referred to the Board, the City Manager mentioned that periodic reports on progress made are submitted to the relevant structures and quantified in terms of percentage achievements. It was mentioned that 88% cases have been finalized to date, with the report thereof even going further to reflect details on what had occurred in each case. However, the City Manager noted the concern that the reasons reflected therein were not convincing for Councillors.

In this regard, and on behalf of Management, the City Manager assured the Council that disciplinary processes will be fastracked and reports thereof to be submitted periodically as per the timelines to be approved by the Council.

In concluding the lengthy discussions then on the matter, the Acting Speaker repeated the amendments as submitted by different Authors. However, Councillor VG Reddy of ADEC withdrew his first amendment and submitted revised amendment as follows: -

**MOTION TO AMEND**

In terms of Rule of Order By-Law 20(4), Councillor VG Reddy of ADEC seconded by Councillor LE Nkomeni of ATM moved as a procedural motion to amend the above recommendations of MPAC by addition of recommendation 1.3 to read as follows: -

*“1.3 That MPAC be instructed to expedite and finalise disciplinary board outcome and report back to Council within six (6) months form the date of this Council meeting.”*

As some members were not in support of the recommendations, the matter was put to the vote. With 172 Councillors present, 08 Councillors (ACC – 01, ADEC – 01, APF -01, ATM – 01, KZNI – 01, MF – 01 and UIM – 01 and VF Plus – 01) voted in favour of the recommendations and 163 Councillors (ANC - 85, DA – 46, EFF – 16, IFP- 12, Action SA - 02 and AIC - 02) voted against the recommendations and 01 PRM Councillor abstained on the matter.

**NOT CARRIED**

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

**MOTION TO AMEND**

In terms of Rule of Order By-Law 20(4), Councillor NI Madlala seconded by Councillor ZR Sokhabase both of ANC moved as a procedural motion to amend the above recommendations by addition of recommendation 1.3 to read as follows:

*“1.3 That the City Manager be instructed to ensure that all disciplinary matters arising from this report, be expedited and the progress report thereof, be brought back to Council on a monthly basis until they are all finalised.”*

**CARRIED**

As some members were not in support of the motion to amend, the matter was put to the vote. With 173 Councillors present, 164 Councillors (ANC - 85, DA – 46, EFF – 16, IFP- 12, Action SA - 02, ABC – 00; ACC – 01, ACDP – 00; DLC – 00; APF – 01; AIC- 02; ALJAMAH – 00; MOSA- 00, NFP – 00 and PFP – 00) voted in favour of the amendment and 08 Councillors (ADEC – 01, APF -01, JEP -01; KZNI – 01, MF – 01, PRM – 01 , TA- 00 and UIM – 01 and VF Plus – 01) voted against the motion to amend. 01 ATM Councillor abstained on the matter.

Therefore, the above-mentioned Motion to Amend was, by the majority voted, CARRIED.



Accordingly, the above recommendations of the MPAC were by the majority vote, **ADOPTED**, with the addition of recommendation “1.3 *That the City Manager be instructed to ensure that all disciplinary matters arising from this report, be expedited and the progress report thereof, be brought back to Council on a monthly basis until they are all finalised.*”

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

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1. NOTICE OF MOTION: PROPOSED BY COUNCILLOR VG REDDY WITHOUT THE MOTION BEING SECONDED: VOTE OF NO CONFIDENCE AGAINST THE SPEAKER OF COUNCIL (3/5/1/1)

This motion is directed against the Speaker of eThekweni Municipality for his misleading actions. The Speaker has blatantly lied to Party Whips when he informed us that there were no criminal charges against the City Manager.

This response was made to a question I posed regarding the City Manager’s involvement in a corruption case where he was alleged to have received kickbacks for extending a particular tender. I have verified that the Head of the CIU has filed an Affidavit, which is currently in the possession of the police, implicating the City Manager in this case and contained in a report tabled at MPAC before the Speaker made these comments.

The Speaker’s conduct is disgraceful and requires further probing. Therefore, I request that this motion be brought forth for further discussion and resolution.

**The Acting Speaker reported that the above-mentioned motion does not meet the specified criteria to be considered by Council in this meeting, on the basis that it was not signed by the author and a seconder, as per the requirements of Chapter 5, section 18 (c) and (d) of the Rules of Order By-Law, 2014, as amended.**

**Thereafter, concerns were raised as to the reasons for the notice of motion forming part of today’s agenda, mention being made that notices of motions were being vetted by the Legal and Compliance Unit prior to consideration by Council. However, it was reported that this notice of motion was only submitted to Council as it was directed to the Speaker of Council.**

**Therefore, the Notice of Motion: Proposed by Councillor VG Reddy relative to the vote of no confidence against the Speaker of Council was **WITHDRAWN**, on the basis of non-compliance with Rule 18 and 19 of the eThekweni Municipality Rules of Order By-Law 2014, as amended.**

2. NOTICE OF MOTION: PROPOSED BY COUNCILLOR J ANNIPEN AND  
SECONDED BY COUNCILLOR J NAIDOO: CITY'S SOCIAL HOUSING  
PROGRAMME (22/2)

This Council noting that:

The City's social housing programme seeks to address the housing backlog within eThekweni and has enlisted social housing programme companies ("Developers") who have built hundreds of flats in Phoenix and other suburbs.

Further noting that:

Proposed beneficiaries have been exploited through prolonged tenancies and rentals which are outside of SHRA rental structure of between R350.00 and R2250.00.

Therefore, in the interest of social justice and these vulnerable individuals,

This Council resolves that:

Executive Committee urgently consider the following recommendations and reports its findings to Council.

1. Identify all "Developers" which have benefited from SHRA subsidies.
2. Establish a "Rent to Own" beneficiaries register.
3. To urgently regularize these beneficiaries.

**Prior to the motion being tabled, the EFF pleaded with Council and the author of the motion to consider directing the motion to the Human Settlements and Infrastructure Committee for consideration in the first instance.**

**Thereafter, Councillor Annipen, the Author of the motion submitted that the motion be deferred to the next Council meeting in view of new developments.**

**Accordingly, the above-mentioned motion was; DEFERRED, as per the request by the Author.**

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## REPORT OF COMMITTEE DECISIONS

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

1. COMMUNITY SERVICES COMMITTEE

Meetings held on : 2023-05-11  
: 2023-05-22

2. ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE

Meeting held on : 2023-05-22

3. EXECUTIVE COMMITTEE

Meeting held on : 2023-05-19  
: 2023-05-23

4. FINANCE COMMITTEE

Meeting held on : 2023-05-17

5. GOVERNANCE AND HUMAN RESOURCES COMMITTEE

Meeting held on : 2023-05-10

6. HUMAN SETTLEMENT AND INFRASTRUCTURE COMMITTEE

Meeting held on : 2023-05-26

7. LOCAL LABOUR FORUM: HUMAN SETTLEMENTS AND INFRASTRUCTURE CLUSTER

Meeting held on : 2023-05-04

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

Meeting held on : 2023-05-04

9. SECURITY AND EMERGENCY SERVICES COMMITTEE

Meeting held on : 2023-05-18

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**ITEMS FOR NOTING**

The Items for Noting, reflected on Pages 35 to 43 of the Agenda, pertaining to the items discussed and resolved at the Executive Committee level during the month of May 2023 were, **NOTED.**

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The meeting terminated at 22h05 and moved into in-committee.

APPROVED AT THE MEETING OF THE ETHEKWINI COUNCIL ON 2023-08-31.

SPEAKER