

No. 39

MINUTES

OF

ETHEKWINI MUNICIPAL COUNCIL

Meeting held on Thursday, 2023-06-15T14:00, streamed from
Inkosi Albert Luthuli International Conventional Centre, Durban.

PRESENT : Councillors TE Nyawose (Speaker), TM Kaunda (Mayor), ZP Myeni (Deputy Mayor), J Annipen, AD Beesley, A Beetge, M Billy, JM Black, M Brauteseth, WJD Burne, MH Buthlezi, KPM Cele, SB Cele, SP Chebure, R Cloete, CB Dlamini, Z Dzanibe, BA Fortein, SN Gabela, SG Gama, GM Gasa, DM Gcabashe, FO Gcabashe, NBC Godlwana, R Gokool, G Govender, S Govender, SV Govender, Y Govender, NC Gumede, S Gumede, BM Gwala, MS Gwala, GJ Hegter, MM Hlengwa, NP Hlomuka, SD Hlongwa, MF Ismail, LBS Jali, DM James, M Johnson, MA Mgobhozi, K Khambule, MH Khan, MN Khubisa, KNN Khuboni, NL Khuzwayo, SNC Khwela, A Kisoona, BG Kubheka, V Kunju, CJ Laing, SW Lushaba, M Lutchmen, WM Luthuli, ME Mabaso, RD Macpherson, MA Madlala, NI Madlala, SR Madlala, RP Maharaj, S Maharaj, FN Majola, HS Makhathini, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, KT Mbhele, RP Mbonambi, JL Mchunu, NP Mchunu, SW Mcineka; RL McKenzie, X Mdlazi, FW Mdletshe, SP Mfeka, K Mhlaba, NM Mhlongo, SE Mhlongo, MB Mjadu, AZ Mkhize, KV Mkhize, MA Mkhize, ME Mkhize, MP Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, BR Mngadi, DF Mngadi, E Mngadi, S Mngadi, SV Mngadi, MR Mngonyama; TJ Mnguni, ZM Mncwango, DP Mngoma, BV Mngwengwe, ZO Mnomiya, S Mnyandu, SR Moodley, R Moses, ND Motseke, SB Mpanza, LI Msomi, DV Msweli, LG Mthembu, SSS Mthethwa, TD Mthethwa, TM Mthethwa, N Munien, OB Mvubu, SK Mzimela, BD Naidoo, J Naidoo, V Ncukana, NB Ndlela, AB Ndlovu, MF Ndlovu, PB Ndlovu, PC Ndlovu, NS Ndlovu, V Ndlovu, SG Nene, TH Nene, SB Ngcongco, S Ngema, DB Ngubane, LE Nkomeni, MS Nkosi, DR Nowbuth, XM Nqweniso, DM Nsundwane, SH Ntombela, PC Ntshangase, BT Ntuli, N Ntuli, NZ Ntuli, PB Ntuli, B Nxumalo, PH Nxumalo, NN Nyanisa, MV Nzimande-Madlala, AAK Paruk, BW Phewa, P Pillay, GDA Pullan, 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, BSB Sindane, EL Singh, J Singh, S Singh, PS Sishange, CN Sisoka, NI Sithole, BS Sivetye, AD Snyman, ZR Sokhabase, ZA Solomon, I Syed, BB Thusi, ME Thusi, M Thusi, ZN Tshazela, NT Tyelinzima, JC Van den Berg, NB Vilakazi, NI Webster, NY Young, GN Zondi, M Zondi, N Zondi, ON Zondi-Mthembu, TG Zungu and there being two (02) vacancies.

ABSENT : Councillors A Abdul, T Biyela (Personal Commitment), NJ Bollman (Indisposed), J Chetty, SV De Boer (Personal Commitment), J Essop (Personal Commitment), BR Gumede (Personal Commitment), F Ismail, J Jacquire, KNN Khuboni (Personal Commitment), ZW Khuzwayo (Indisposed), DL Mea, A Maharajh, TG Makhanya (Personal Commitment), BA Mchunu (Personal Commitment), T Miya (Personal Commitment), NA Mkhize, NN Mkhize (Indisposed), GN Mhlongo, NP Msibi, NP Msomi

(Indisposed), T Mohamed , MR Nxumalo (Personal Commitment), TV Xulu, T Xuma, T Sabelo, DT Pillay, EG Smith , LC Sikhakhane (Personal Commitment), HM Van Der Ryst, and SM Windvogel (Personal Commitment).

AMAKHOSI

PRESENT : None

AMAKHOSI

ABSENT : Inkosi JJ Shangase; Inkosi S Mlaba and Inkosi EB Shozi (All on Personal Commitments).

OFFICIALS

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

(At the commencement of the meeting 190 Councillors were present, comprising ANC - 89, DA - 44, EFF - 21, IFP - 15, ASA - 03, ABC - 01, ACC - 02, ACDP - 01, AIC - 02, ADEC - 01, APF - 01, ATM - 01, AL JAMA-AH - 01, DLC - 01, JEP - 00, KZNI - 01, MF - 01, MOSA - 01, NFP - 01, PFP - 00, PRM - 01, TA- 01, UIM - 01 and VF Plus - 00).

1. NOTICE CONVENING THE MEETING

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

2. OPENING

The Speaker declared the meeting open at 10h24 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 That South Africa, the City of Durban and the entire Football Fraternity are saddened by the passing of Mr Clive “the Dog” Barker, who flew the South African flag high by leading Bafana Bafana to the 1996 CAF prestigious win, condolences were extended to his family and the whole soccer fraternity.

5.1.2 Congratulations were extended to the Municipal officials, Councillor Mkhize and all runners from the global corners who participated and finished the Ultimate Human Race, the 2023 Comrades Marathon, and for Durban KwaZulu-Natal successfully hosting the said event held Sunday, 11 June 2023.

5.1.3 The City, in celebration of the Youth Day wished all the Youth well on the commemoration of sacrifices made by Youth Members on 16 June 1976, who fought for equality. Tribute was paid to those that stood for the betterment of our education system.

5.1.4 The City congratulated its entity, the Inkosi Albert Luthuli International Convention Centre (ICC) for being recognised for its excellence by being nominated in the 4th Annual World Awards of Meetings, Incentives, Conference, and Exhibition (MICE) industry. The ICC has been nominated as one of South Africa’s best Convention Centre, and voting commenced 07 June and will close on 25 August 2023.

5.1.5 Councillors were reminded to complete the Attendance Register circulated at the meeting.

5.1.6 Councillors were encouraged to conduct themselves with dignity and decency during the Council proceedings, and in compliant with the expectations in terms of the Councillors’ Code of Conduct.

5.1.7 Political Party Whips were reminded of their responsibility to monitor the conduct of their respective Members. Emphasis was made that when a matter is put to the vote there should be no movement to avoid dispute on the votes cast arising from queries regarding the number of Councillors who cast votes.

6. SPEAKER’S REPORT

It will be recalled that the Council meeting of 2023-06-15 was a continuation of the Council meeting held 2023-05-31 and where the Speaker’s Report was tabled.

7. APPLICATIONS FOR LEAVE OF ABSENCE

RESOLVED:

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

COUNCILLORS

| | | | |
|----------------------------|---|------------|--------------------------|
| Councillor A Abdul | : | 2023-06-15 | |
| Councillor T Biyela | : | 2023-06-15 | Personal Commitment |
| Councillor NJ Bollman | : | 2023-06-15 | Indisposed |
| Councillor J Chetty | : | 2023-06-15 | |
| Councillor SV De Boer | : | 2023-06-15 | Personal Commitment |
| Councillor J Essop | : | 2023-06-15 | Personal Commitment |
| Councillor SV Govender | : | 2023-06-15 | Personal Commitment |
| Councillor BR Gumede | : | 2023-06-15 | Personal Commitment |
| Councillor F Ismael | : | 2023-06-15 | |
| Councillor J Jacquire | : | 2023-06-15 | |
| Councillor M Ismael | : | 2023-06-15 | To be excused at 13:00 |
| Councillor KNN Khuboni | : | 2023-06-15 | To be excused at 12:00 |
| Councillor ZW Khuzwayo | : | 2023-06-15 | Indisposed |
| Councillor A Maharajh | : | 2023-06-15 | |
| Councillor TG Makhanya | : | 2023-06-15 | Personal Commitment |
| Councillor BA Mchunu | : | 2023-06-15 | Personal Commitment |
| Councillor GN Mhlongo | : | 2023-06-15 | |
| Councillor T Miya | : | 2023-06-15 | |
| Councillor NA Mkhize | : | 2023-06-15 | |
| Councillor NN Mkhize | : | 2023-06-15 | Indisposed |
| Councillor ZM Mncwango | : | 2023-06-15 | to be excused at 11:30 |
| Councillor T Mohamed | : | 2023-06-15 | |
| Councillor NP Msomi | : | 2023-06-15 | Indisposed |
| Councillor T Mvubu | : | 2023-06-15 | To leave at 13:00 |
| Councillor NP Msibi | : | 2023-06-15 | Personal Commitment |
| Councillor NR Nxumalo | : | 2023-06-15 | Personal Commitment |
| Councillor J Naido | : | 2023-06-15 | To join the meeting late |
| Councillor TD Pillay | : | 2023-06-15 | |
| Councillor T Sabela | : | 2023-06-15 | |
| Councillor LC Sikhakhane | : | 2023-06-15 | Personal Commitment |
| Councillor EG Smith | : | 2023-06-15 | |
| Councillor HM Van Der Ryst | : | 2023-06-15 | |
| Councillor SM Vindwoegel | : | 2023-06-15 | |
| Councillor TV Xulu | : | 2023-06-15 | |
| Councillor T Xuma | : | 2023-06-15 | |

AMAKHOSI

| | | | |
|--------------------|---|------------|----------------------|
| Inkosi S Mlaba | : | 2023-06-15 | Personal Commitments |
| Inkosi JJ Shangase | : | 2023-06-15 | Personal Commitments |
| Inkosi EB Shozi | : | 2023-06-15 | Personal Commitments |

8. **DECLARATION OF INTEREST**

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

9. CONFIRMATION OF MINUTES: MEETING HELD ON 2023-04-26; and 2023-04-26 (In-Committee)

With Councillors BT Ntuli having moved for the adoption of the minutes and seconded by M Jokweni, accordingly both the ordinary minutes and In-committee minutes of the meeting held on 2023-04-26- were **ADOPTED**.

10. MATTERS ARISING

Reference was made to page 1694, item 6.2, and the EFF commended His Worship the Mayor for timeous implementation of the Council decision relating to an urgent need to undertake mechanical and electrical rehabilitation of the Ntuzuma Reservoir 2 Water Pump Station damaged by fire outbreak. The EFF expressed the view that the City could perform exceptionally well if a similar approach could be practiced in all outstanding challenges faced by the City.

Accordingly, His Worship the Mayor appreciated the above comments, giving assurance that improved mechanisms would be applied in dealing with all other outstanding issues.

Meanwhile, the ActionSA cautioned the Speaker not to set undesirable precedence by allowing the Mayor to respond to the EFF whereas the latter was also perceived to be out of order. Upon the Speaker clarifying the matter, the Mayor then willingly withdrew his comments.

11. QUESTIONS IN TERMS OF RULE 27 OF THE RULES OF ORDER BY-LAW, 2014, AS AMENDED

The Speaker reminded the meeting of the decision taken at the Council meeting of 2023-05-31 that responses to question raised in terms of Rule 27 of the Rules of Order By-Law, 2014, as amended be shared with the Authors. He then hoped the Chairpersons of Support Committees and the Units Heads have acted in accordance with this decision.

Speaking on the issue of questions governed by Rule 27, the ANC sought clarity whether a Councillor was allowed to raise a question on behalf of another Councillor or Party.

The ADEC then directed the house to subsection 16 of Rule 27, and advise of the provision in this regard for a Councillor to take charge on behalf of another Councillor who has raised the question but is no longer present in the meeting.

However, the Speaker provided clarification that as per the normal procedure and interpretation of Rule 27, a Councillor is not permitted to raise a question on behalf of another Councillor or Political Party.

With regard to being furnished with responses, the DA indicated that a follow up has been made with Secretariat and confirmation was given that responses would be made available in this meeting. Meanwhile, the DA was of the view that the Office of the Speaker should take full responsibility and accountability in ensuring that responses to questions are obtained from the relevant

departments and subsequently cascaded to the Authors accordingly. The DA further submitted that the Portfolio Committee Chairpersons should then verbally present responses in the Council meeting for all to be privy to updates on service delivery matters.

The AIC raised the issue of transparency in respect of the decision made by the Speaker in that procedurally the questions should be dealt with openly in Council meetings as opposed to responses being directly provided to Authors.

Meanwhile the DLC submitted the view that it was incumbent upon Councilors to make follow ups with the Office of the Speaker and the Council Secretariat when responses to questions have not been received.

Following the views submitted, the Speaker made a ruling, reiterating that the Council decision of 2023-05-31 still stands where it was agreed that all questions raised for discussion at the previous meeting of 2023-05-31 will be responded to through email correspondence to the Authors.

Thereafter, the City Manager was tasked with a responsibility to ensure that the coordination process for the submission of responses to the respective Authors should be done by no later than Tuesday 20 June 2023. Moreover, the Speaker reminded the house that ordinarily only 5 minutes gets allocated for each question raised. That for questions not completed during the meeting the responses thereof are then forwarded to the Authors.

In view of the foregoing, the questions submitted are reflected below for record purposes, but the responses thereon would be forwarded to the Authors accordingly.

11.1 Questions submitted by Councillor I Syed: Rates Penalties (7/2/R):

As we find ourselves in the climate of recession with all who live within the City being left without capacity to take care of their own needs, let alone the build in infrastructure that they currently have. We would like seek clarity on the policy of rates penalties, based on building inspections.

1. **How many inspectors are there within the City to form part of the Building Inspectorate Unit?**
2. **What criteria is used in terms of compliance, with approved building plans as well as usage?**
3. **What is the penalty for non-compliance?**
4. **What is the procedure for instituting these penalties and are there compliance notices issued? Are the owners interviewed and informed of the ramifications of not adhering to by-laws? Or is it the discretion of the inspectorate to issues these penalties?**
5. **What is the timeframe by which a property owner has to comply with a compliance order; sometimes it would mean submission of deviation plans and or remedy to the non-compliance ones?**

6. **How many properties within the City currently suffer penalties at 9 (nine) times the ratable value?**
7. **In which areas are these properties located? Is there a list of these properties available?**
8. **What is being done to remedy the penalties in terms of compliance?**
9. **What relief can a property owner seek if they have had their rates and/or penalized?**
10. **Will there be a reversal of the penalties once compliance is achieved?**
11. **The norm seems to be that penalties are being raised as a revenue stream rather than that a call to enforce the by-laws and or a preventive.**
12. **What timeframes are in place to resolve issues of penalties post the remedy of the non-compliance, if any at all?**
13. **Who is ultimately responsible within the City to be oversight over the issuing of penalties and its reversal if found that the official in the City are negligent in their duty of proper oversight? The reason for this question is that many property owners feel that there is prejudice when it comes to penalties and compliance is achieved as soon as they are made aware of it.**
14. **Does the City in terms of by-laws have courts to address these cases or is it a matter of non-contestation and pay in protest?**

11.2

Questions submitted by Councillor M Ismail: Overtime (4/5/1/3):

The City is paying astronomical amounts of money to its employees in various departments for overtime. This raises several concerns in relation to the City's finances.

Therefore, we, the Active Citizens Coalition, rise to present the following questions for an informed response.

1. **How many employees does the City have, including administrative, within the electricity, water and sanitation and CSW departments?**
2. **How many of these employees, in numbers per Unit, claim overtime?**
3. **How many of those staff claiming overtime are above the prescribed limit of 40 hours per month?**
4. **What is the average gross salary of entry level staff within these three Units respectively?**
5. **What is the cost to the City in rand value of overtime claimed that is outside of the prescribed limits for the period: Month to month from 01 June 2022 to 30 November 2022?**

6. **How many staff could be employed within the City based on overtime spend, over and above the regulated hours for the same period from 01 June 2022 to 30 November 2022?**
7. **Please correct the calculation of overtime as we understand it:**
 - 7.1 **Normal time hours 160 hours a month.**
 - 7.2 **Maximum overtime 40 hours.**
 - 7.3 **Time-and-a-half, weekends and holidays are double.**
8. **If staff work over 40 hours a month, how would the City compensate them time-and-a-half or double time?**
9. **In an ideal situation would you say that the City is short staffed based on the overtime hours worked?**
10. **If overtime was brought within the prescribed hours, how many jobs would the savings in paying overtime salaries create?**

11.3

Questions submitted by Councillor M Billy: DSW Contracts Awarded via Section 36 (9/1/1/4):

Between October 2022 and January 2023 eThekweni Municipality awarded 20 Durban Solid Waste (DSW) refuse collection tenders worth R144.8 Million using Section 36 of the Supply Chain Management Regulations, Section 36 (2) of the City's SCM Policy, requires the Accounting Officer to record the reasons for any deviations and report them to the next meeting of the Council.

Considering the above, I pose the following questions:

1. **In accordance with this requirement and for the purpose of transparency and oversight, can I request that Council be appraised with information relating to the reasons for deviations for the following contracts number:**
 - (a) **WS-6993A**
 - (b) **WS-6994B**
 - (c) **WS-6995C**
 - (d) **WS-6996D**
 - (e) **WS-6997E**
 - (f) **WS-6993J**
 - (g) **WS-6994J**
 - (h) **WS-6995J**
 - (i) **WS-6996J**
 - (j) **WS-6997J**
 - (k) **WS-6972K**
 - (l) **WS-6978Q**
 - (m) **WS-6977**
 - (n) **WS-6973L**
 - (o) **WS-6970I**
 - (p) **WS-6967F**
 - (q) **WS-6966E**
 - (r) **WS-6965D**
 - (s) **WS-6964C**
 - (t) **WS-6963B**

2. **When was the application for deviation done for the each of the above contracts?**
3. **When was the deviation granted for each of the above contracts?**
4. **Was there a call for quotations? If so, when was the call made when was the closing date?**
5. **How many quotations were received for each of the above contracts?**
6. **When was the awards for each of the above contracts awarded?**

Responses to be received from the relevant officials or Portfolio head via emails.

11.4

Questions submitted by Councillor SV De Boer: Outstanding Water Leaks, Bursts and Reinstatement Complaints (23/1/11/1/1/1):

Residents of eThekweni Municipality are furious about the overwhelming amount of outstanding water leaks, bursts, and reinstatement complaints. Despite out water loss levels rising each year and currently at over 56 percent there are hundreds of outstanding waters related complaints contributing to water loss.

In light of the above, I request that the following questions be answered:

1. **What is the Water Department doing about the lack of resources within the department?**
2. **What is the cause of the shortage of resources in the Water Department?**
3. **How many valid contractors are available to service the Northern Region?**
4. **Is there still budget available for maintenance and repairs within the Water Department?**
5. **What is the Water Department plan to reduce water loss?**
6. **What is the response time once a water leak is reported?**
7. **How many water leaks and bursts were repaired in Durban North in the last three months?**
8. **How many water leaks and bursts are still outstanding in Durban North?**
9. **How many water reinstatements still need to be completed in Durban North?**

11.5

Questions submitted by Councillor Y Govender: Complaints about Water Meters Related Faults and bridged connections (23/1/9):

The water losses in eThekweni continue unabated and many communities are left without supply for lengthy periods. References generated indicate numbers of faults in excess of 1500 daily in most districts. Repairs are delayed and there is also frequent

shutting of reservoirs in areas. Complaints about meter related faults and bridged connections are also rife.

It is on this background that I pose the following questions:

- 1. Is there a problem with material shortages that results in the high turnaround to fix leaks, bursts, and leaking meters? If yes, detail all factors and/or reasons.**
- 2. How many homes have no domestic meters and why?**
- 3. Is there a shortage of water meters in stock and since when?**
- 4. When will the backlog in fitting water meters be addressed?**
- 5. What is the amount in Rands of non-metered water losses, due to bridged connections?**
- 6. Why are so many backfilling jobs outstanding and why are holes/excavations left open for months if burst are completed?**
- 7. Why is the spoil not being removed. Precise reasons are required?**
- 8. Does EWS have a problem with plumbers and the number of contractors? How is this impacting on the turnaround time to fix leaks, bursts and meters?**
- 9. Do we have enough plumbers to deal with bursts, escalations?**
- 10. How many contractors does EWS have per district?**
- 11. How many Contractors was EWS supposed to have to address the excessive faults?**
- 12. What is the turnaround strategy to address the backlog?**
- 13. What budget has been spent on Contractors and has it been exhausted or exceeded?**
- 14. Is Tongaat water works fully functional?**
 - 14.1 What is the status of the Polyelectrolyte contract?**
 - 14.2 What is the status of the Chlorine gas contract?**
- 15. How many new wdo's have been appointed this year?**
- 16. How many funded and unfunded vacancies still exist within EWS?**
- 17. Are there still issues with staff refusing to work due to overtime or payment issues?**

18. **How many roadworthy vehicles does each depot have and what is the shortfall?**
19. **How many Plumbers does each depot have and is there a shortfall?**
20. **How many TLBs does each depot have? What is the SOP in hiring TLBs when there is a backlog or considerable delays due to lack of TLB or driver?**

11.6

Questions submitted by Councillor: ZW Khuzwayo: Building of Umbhayi Housing Development Project (22/7/1/1/3):

The eThekweni Municipality in the past 2 years or more the building has not resumed for Umbhayi Housing Development Projects for poor people of Umbhayi Informal Settlement. The project is not finished and nothing happening.

Considering the above, I posed the following questions:

1. **Why has the project stopped? Please provide the report.**
2. **What is the timeframe for completion?**
3. **Who is going to be responsible for the cost vandalized buildings?**
4. **Was the Environmental Impact Assessment conducted?**
 - 4.1 **If yes, can you please provide a report?**
 - 4.2 **If not, why not?**
5. **Was the feasibility study providing a report?**
 - 5.1 **If yes, please provide the report.**
 - 5.2 **If not, why not?**

12.

REPORTS:

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

(His Worship the Mayor, Councillor TM Kaunda, presented the First Report of the Executive Committee, as recorded from Page 1751 below).

FIRST REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2023-05-23)

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

1. REPORT OF THE GOVERNANCE AND HUMAN RESOURCES COMMITTEE:
MEETING HELD: 2023-05-10.

(Page R1)

1.1 Hosting of Gender-Based-Violence and Femicide Webinar for eThekweni Municipality Employees (19/1/1/4):

Page 46: Governance and Human Resources Committee - Agenda 2023-05-10

The Committee received a report advising of the Gender-Based-Violence and Femicide Webinar to be hosted by the Human Capital Unit through Microsoft Teams on 15 May 2023. That the webinar is aimed at increasing knowledge and understanding by the eThekweni Municipality employees of the Gender-Based-Violence and Femicide matters, including concepts of gender, sexuality, and human rights. The ultimate objective being the creation of overall awareness and promotion of a culture of acceptance of diversity and inclusion in the workplace. Also, to call for the prevention and elimination of violence against women, girls, LGBTQIA⁺ and men.

Upon consideration at the Executive Committee level, an update was provided that the Gender-Based-Violence and Femicide Webinar for eThekweni Municipality Employees has been re-scheduled to 25 May 2023.

With the Committee noting the significance of creating awareness in this regard,

COMMITTEE RECOMMENDS:

- 1.1.1 That the initiative by the Deputy City Manager: Corporate and Human Capital to facilitate the hosting of the Gender-Based-Violence and Femicide Webinar through Microsoft Teams on 25 May 2023, be noted with great appreciation since this will create positive awareness and results in the creation of a culture of acceptance and unity in diversity and inclusiveness in the workplace and subsequently impact productivity in a positive manner.
- 1.1.2 That it be noted that there are no costs involved for the Speakers and Programme Directors to be used for the Gender-Based-Violence and Femicide Webinar referred to in .1 above.

During consideration the IFP was in support of the Gender-Based-Violence and Femicide (GBVF) Webinar and emphasized that this matter should be given priority given the sensitivity of the matter and the great extent of suffering by

women in particular due to GBVF incidents. Also, the sexual harassment experiences in the workplace, with this GBVF Programme to then serve as a platform to provide emotional support and aid the healing process. It was recommended that event of this nature should be planned and held on an ongoing basis to ensure standing support for the GBVF victims.

Supporting the programme, the ANC expressed the importance of concentrating efforts and acting as a collective to address GBVF issues, including sexual harassment. Mention was made that this matter was also receiving the necessary attention in different structures through gender activists City and Country-wide. That this is a societal issue requiring societal awareness and for leadership in different spheres together with the community at large to support government initiatives aimed at fighting the scourge of the GBVF. The ANC felt that government should strengthen laws and legislations impacting GBVF for all stakeholders involved to be empowered and supported to implement the necessary measures to combat this social ill crippling the communities. In particular, to address the manner in which law enforcement agencies handle the GBVF cases.

Thereafter the report was accordingly **NOTED.**

1.2

Request for Authority to Host Disability Management Summit 2023 (4/3/9):

Page 104: Governance and Human Resources Committee - Agenda 2023-05-10

Authority is sought for the Deputy City Manager: Corporate and Human Capital to facilitate the hosting of the Disability Management Summit on 09 June 2023 at the Inkosi Albert Luthuli International Convention Centre. The costs of hosting the summit amounts to R133 700.00 (One Hundred and Thirty-Three Thousand Seven Hundred Rand). The Summit is aimed at promoting transformation for the Municipality to serve the needs of all its employees. The promotion of disability inclusion in the workplace will help address the challenges of unemployment; inequality and poverty and contribute to the overall goal of achieving a more capable state; driving a strong and inclusive economy; as well as building and strengthening the capabilities of South Africans.

The eThekweni Municipality is committed to promoting equal opportunities and values the skills and abilities of People with Disabilities (PWD's). The Council recognises the contribution of all employees and has best interest at heart to adopt a culture that create a working environment in which PWD employees can fully participate.

Recruiting PWDs and working proactively to retain employees when they become disabled is fundamental to the working culture of the Municipality. The Committee was advised that Monthly reports on disability status for the Municipality are provided with a view to enabling effective oversight to be undertaken in this regard.

With this initiative being accepted with great appreciation,

COMMITTEE RECOMMENDS:

That authority be granted for the Deputy City Manager: Corporate and Human Capital to incur expenditure in the amount of R133 700.00 (One Hundred and Thirty-Three Thousand Seven Hundred Rand) to host the Disability Management Summit on 09 June 2023 at the Inkosi Albert Luthuli International Conventional Centre, with a view

to promoting disability inclusion in the workplace and assist to address the challenges of unemployment; inequality and poverty thus contributing to the overall goal of achieving a more capable state; driving a strong and inclusive economy; as well as building and strengthening the capabilities of South Africans.

Financial Implications:

| Number of delegates | Amount | Comments |
|---|--------------------|--|
| Durban ICC Main Venue (200 pax) | R90 000.00 | Refreshments, catering, all-inclusive full day conference package, estimated soft drinks |
| Technical | R25 000.00 | |
| Contingency fee 10% | R11 500.00 | |
| Subtotal Excl. VAT | R110 000.00 | |
| Vat 15% | R16 500.00 | |
| Total Including VAT | R126 500.00 | |
| 2x Sign Language Interpreters @ R600 each x 6 hours | R7 200.00 | The duration of the program mandates two sign Language Interpreters. |
| TOTAL | R133 700.00 | |

The budget event is provided for under Vote Number: 33118.22710.30.12120.0000.56300-4.0010 in the 2022/2023 Financial Year.

The IFP supported the matter and applauded the event planners for the exclusive commitments in coordinating the Summit. In addition, the IFP believed that the programme was going to adequately promote and support the inclusion of people with disability in the workplace and would play a significant role in addressing the challenges of unemployment; inequality etc. The IFP had hoped that the Summit would attract various stakeholders, including law enforcements agencies and advocates who would assist around the investigation of cases and challenges relating to disability management. Moreover, the IFP was also of the view that the Summit would serve as a platform for information sharing and awareness.

Commenting on the matter the ACC positively welcomed the hosting of the Disability Management Summit, citing a need to go beyond physical disability, but to also consider intellectual disability such as down syndrome and other related intellectual disabilities.

Supporting the matter, the ANC advised of the workplace priority to support people with disability. In this regard the eThekweni Municipality was applauded for creating space for the Municipality to employ people with disability (PWD). This being done by setting a target for the Municipal Units and Departments to engage PWD. The ANC commended the Governance and Human Resources Committee for leading this process, to monitor the achievement of 2% target to employ PWD and achieve compliance with the Employment Equity Act.

Accordingly, the item was ADOPTED.

2. REPORT OF THE COMMUNITY SERVICES COMMITTEE: MEETING HELD:
2023-05-11.

(Page R3)

2.1 Request for Authority to Transfer Two Military and Historical Artefacts to Warriors Gate – M.O.T.H. Museum of Militaria (35/2/1/1/1):
(Page 25: Community Services Committee - Agenda 2023-05-11)

During the Executive Committee, the significance to safeguard, protect and preserve the City's historical artefacts was over-emphasised. Also, that constant monitoring of the artefacts be undertaken during the 10-year lease agreement period; to ensure that the artefacts were not misplaced and to remain the property of eThekweni Municipality while being managed by the Warriors Gate – M.O.T.H. Museum of Militaria. That internal arrangements be made for sufficient capacity to be available to maintain the artefacts at the end of the lease agreement period.

A proposal being made and agreed to, for inclusion of recommendation 2.1.4 as follows; "That upon the return of the two military and historical artefacts from the Warriors Gate – M.O.T.H. Museum of Militaria artefacts after the 10-year lease agreement has expired; Parks, Recreation and Culture Unit be capacitated in terms of handling the artefacts, including preservation thereof."

With the Committee noting the significance to use specialist Museum for the storage and safekeeping of military and historical artefacts,

COMMITTEE RECOMMENDS:

- 2.1.1 That authority be granted for the Head: Parks, Recreation and Culture, in consultation with all stakeholders affected, to transfer the role of managing and taking responsibility for the two (02) military and historical artefacts, namely, the Ordinance 15 Pounder Barrell Loading 7CWT field guns, from the City Hall Precinct to the Warriors Gate – M.O.T.H. Museum of Militaria for safeguarding, protection, restoring and preservation.
- 2.1.2 That subject to the approval of .1 above, the Head: Parks, Recreation and Culture ensures that all administrative processes are duly followed and, that the KwaZulu-Natal AMAFA & Research Institute is notified accordingly, as the recognised Provincial heritage body in KwaZulu-Natal.
- 2.1.3 That subject to the approval of .1 and .2 above, it be stipulated that the artefacts remain the property of eThekweni Municipality, therefore, authority be granted for the Head: Parks, Recreation and Culture to enter into a 10-year lease agreement, with an option to review, with Warriors Gate – M.O.T.H. Museum of Militaria with regard to the safekeeping of the artefacts.
- 2.1.4 That upon the return of the two military and historical artefacts from the Warriors Gate – M.O.T.H. Museum of Militaria artefacts after the 10-year lease agreement has expired; Parks, Recreation and Culture Unit be capacitated in terms of handling of the artefacts including preservation thereof.

Financial Implications:

There are no financial implications regarding the removal of the artefacts. If/where necessary, the transportation and handling of the artefacts can be arranged with the members of the Natal Field Artillery stationed at Lords Ground Military Base.

The APF was in support of the initiative to transfer role of managing and taking responsibility for the two (02) military and historical artefacts. However, a concern was expressed around the exorbitant budget set aside to preserve the Military and Historical Artefacts which it was believed it carries no historical significance towards black South Africans.

Supporting the item, the ANC expressed the view that it was imperative to preserve the military and historical artefacts to ensure that history was preserved for the generation to come. It was further confirmed that at the Community and Emergency Services Committee level a decision to remove the aforesaid military weapons was informed by the current storage place not favourable for keeping such weapons. It was also clarified that this transfer was done as a temporary measure, and will be reviewed after a period of 10 years following review of internal capacity to handle future storage of such artefacts.

Accordingly, the report was **ADOPTED.**

3. REPORT OF THE FINANCE COMMITTEE: MEETING HELD: 2023-05-17.
(Page R6)

3.1 Public Tender Awards of eThekweni Municipality for the Month Ended 31 March 2023 (9/1/3):
(Page 13: Finance Committee - Agenda 2023-05-17)

The Committee noted that the amount of R791 608 970.19 (Seven Hundred and Ninety-One Six Hundred and Eight Thousand Nine Hundred and Seventy Rand Nineteen Cent) was the total value of tenders issued during the month of March 2023.

A submission being made that the Committee had to undertake project site inspections for completed projects as part of its oversight role. It being further submitted that the total value for some of the awarded tenders reflected zero figures; however, clarity was given that those tenders related to panel contracts which were awarded on zero-base contracts; and that the amounts thereof will only be reflected when the service is required. The Committee further noted with appreciation improvement on the decreased number of Section 36 tender awards, which were reported to be 10,9% of the tender values issued during the month of March 2023, it being emphasised that the Municipality had to maintain or improve further on this position.

On the other hand, the Committee observed with dissatisfaction that 0,8% of the total tenders issued during the month of March 2023, were awarded to the youth, mention being made that the figure had to be improved, but in compliance with relevant regulations. Also, that the Municipality had to develop youth empowerment programmes on tender processes as part of transformation.

In view of the foregoing,

COMMITTEE RECOMMENDS:

- 3.1.1 That the public tender awards by the City for the month of March 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 2023-04-18, be noted.

- 3.1.2 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.
- 3.1.3 That the Finance Committee calls for additional information on individual awards, where it deems appropriate and necessary to play its oversight role.
- 3.1.4 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.
- 3.1.5 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.

The report was NOTED.

- 3.2 Quarterly Report on Withdrawals from Municipal Bank Account in Terms of the Municipal Finance Management Act (7/8/6):
(Page 167 : Finance Committee - Agenda 2023-05-17)

COMMITTEE RECOMMENDS:

- 3.2.1 That the report on withdrawals from the Municipal bank account as at 31 March 2023, submitted in terms of Section 11(4) of the Municipal Finance Management Act, be noted, it being recorded that the withdrawals relate to the following:
- Section 11(f): To refund money incorrectly paid into a bank account.
 - Section 11(g): To refund guarantees, sureties and security deposits.
 - Section 11(h): Investment of money not immediately required.
- 3.2.2 That Council notes that the report on withdrawals will also be submitted to the Provincial Treasury and the National Treasury as well as the Auditor-General, in line with the statutory requirement.
- The report was NOTED.**

- 3.3 Investments Report for the Month Ended 31 March 2023 (7/11/4):
(Page 170 : Finance Committee - Agenda 2023-05-17)

The Committee noted the Municipal funds invested at different Financial Institutions are recorded to amount to R9 827 Billion, at an average rate of return on investments of 8.32%. Also, that the Municipality has an overdraft facility of R682 Million and the unutilised Capital and Operational Grants as at the end of March 2023 was reported to be R3 387 Million. It being further noted that there was 52 (fifty-two) days cash on hand excluding grants.

During discussions, reservations were expressed regarding the unutilised grants, it being cited that there were two (02) months left before the end of the current financial year, in this regard, the Municipality was encouraged to timeously spend conditional grants to evade these grants being returned to the National Treasury. Submission being made that in future the list of grants received and the figures thereof; be incorporated in the monthly investments report. Further, concerns were expressed on the longest

loan maturity date recorded as the year 2037. It being clarified that Council approves loan borrowing to fund the City's infrastructure assets, therefore there were economic benefits being realised in this regard as payment of the loans are in line with the useful life of the assets.

With the Committee noting the deliberations,

COMMITTEE RECOMMENDS:

That the report on investments for eThekweni Municipality as at 2023-03-31, which records the total funds invested at financial institutions as R9 827 000 000.00 (Nine Billion Eight Hundred and Twenty-Seven Million Rand), at an average rate of return on investment of 8,32%, as submitted by the City Manager, in line with the requirements of the Municipal Cash Management and Investment Regulation of the Municipal Finance Management Act, 2003, be noted.

NOTED.

3.4

Noting of the Proposed Amendment of Contract S5234 for the Manufacture, Supply and Delivery of Toilet paper for a Period of 36 Months in Line with Section 116(3) (a) (b) and (c) of the MFMA (8/1/14/1):

(Page 176 : Finance Committee - Agenda 2023-05-17)

The Committee received a report submitted in compliance with Section 116(3) (a), (b) and (c) of the Local Government: Municipal Finance Management Act No. 56 of 2003 for the proposed amendment of Contract S5234 for the Manufacture, Supply and Delivery of Toilet Paper. The amendment relates to the adjustment of existing awarded Unit Price due to the current economic conditions with raw material and other factors. The Supply Chain Management Unit has been assigned to have a contract in place for Line Departments. The Municipality has a significant number of employees and has a commitment to provide the toilet paper City-wide free of charge. This is in line with the fulfilment of the human rights for the access to basic needs. The suppliers are required to supply and deliver quality product in a form of relevant SABS approved specification offered.

The contracts were awarded to Brimstohn Manufacturing, Bingelelani t/a Softer Tissue and Lumar MP Concept for a period of thirty-six (36) months commencing on 01 August 2022 ending 31 July 2025. This corporate contract covers all Departments and some communities. Background information being given that the three (03) awarded Manufacturers have written to the Municipality requesting for the price increase, following the issues surrounding the industry in production and operational nature of manufacturing and delivering products. Also, part of the background information, the following salient features of the report were noted: -

- (i) Approved Special condition of tender (SCC17) states that "Prices are fixed for the duration of contract" however due to the ongoing cost pressure, suppliers could not hold the awarded prices as the Mill was enforcing price increases.
- (ii) Contract amendment to clause SCC 17 be amended to read as "Price adjustments shall be substantiated by a letter from the Mill confirming percentage increases, which shall be submitted a month prior to its inception for approval and further seek approval from Bid Adjudication Committee if required".
- (iii) Awarded Suppliers be paid back for price variation of all orders delivered for the Quantities supplied to the Municipality stores for proposed year 1 cost.

It being further noted that Mill and other Industrial Manufactures have issued price increases last year in 2022 during the evaluation and tender award and one price increase (2023) this year.

Accordingly,

COMMITTEE RECOMMENDS:

3.4.1 That Council notes the reasons to amend Contract S5234, in terms of Section 116(3) of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003, for the Manufacture, Supply and Delivery of Toilet Paper for a period of thirty-six (36) months due to the following reasons:

- (i) Input cost due to coal, energy, pulp, and paper sector (Mill cost)
- (ii) Increase operational cost in electricity and fuel from suppliers
- (iii) Critical Manufacturing inputs of tissue products - Raw Material (Jumbo Roll)
- (iv) Constrains in Manufacturing capacity (supply and demand has increased significant).
- (v) Price increase of cores

3.4.2 That Council notes the public participation process advertised through the media, in terms of Section 116(3) (b) (i) of the MFMA, as part of achieving compliance requirements pertaining to the public participation process to invite public comments on the proposed contract amendment, it being further noted that no comments were received from the public consultation process.

Financial Implications:

Funding for Manufacture, Supply and Delivery of Toilet Paper will be provided in the operational budget to cater for all line departments and Councillors. The details of the current contract S5234, including Unit Rates, and the proposed rates for the Section 116(3) authorisation is shown in table 4.2.2 (Toilet Paper Manufacturers Proposed Cost) in the report of Acting Head : Supply Chain Management dated 2023-02-28.

Below are the proposed amended unit rates per toilet paper roll for year 1:

| No. | Manufacturer | Current Price Per Roll Year 1 (Excl. VAT) | Proposed Unit Price per Roll Year 1 (Excl. VAT) 2022 | Back Pay Per Roll Year 1 (Excl. VAT) 2022 | Proposed Unit Price per Roll Year 1 (Excl. VAT) 2023 | Back Pay Per Roll Year 1 (Excl. VAT) 2023 |
|-----|-----------------------------------|---|--|---|--|---|
| 01 | Brimstohn manufacturing (PTY) Ltd | R3.52 | R4.58 | R1.06 | R6.08 | R1.50 |
| 02 | Bingelalani t/a Softer Tissue | R3.60 | R4.68 | R1.08 | R6.22 | R1.54 |
| 03 | Lumar MP Concepts and Projects | R3.66 | R4.76 | R1.10 | R6.32 | R1.56 |

While the DA was in support the matter, however concern was expressed that the shortage of toilet paper impact the City-wide and that this is a sign of inadequate contract management system, not only with this contract, but also with other contracts within the City. It being emphasised that a need exists to ensure quality is maintained and that adequate procurement process are in place to ensure that the City does not experience similar challenges in future.

The DA further commented on the shortage of printing paper, with this impacting the delivery of Agendas to Councillors and that interfering with effective political oversight on matters.

The APF supported the item regarding the extension of contract for Supply and Delivery of Toilet Paper. Meanwhile, the ACC also supported the matter, however, expressed concern around the excessive cost of the paper which the ACC felt this does not correspond with the quality of the paper supplied.

Supporting the matter, the ANC clarified that this is in a existing contract and with Council expected to note reasons for contract amendment, as per the provision of the MFMA. The ANC concurred that uninterrupted provision of toilet paper is necessary and is the fulfilment of basic human rights, hence, the importance to note the item to allow the Bid Adjudication Committee to proceed with some technical matters to conclude the amendment for the continued supply of toilet papers.

Accordingly, the recommendations were **NOTED.**

3.5

Noting of the Proposed Amendment of Contract S5257 for the Supply and Delivery of Bond Paper A3 and A4 80g/M Sheet, 90g/M Short Grain and NCR Paper for a Period of 36 Months in Line with Section 116(3) (a) (b) and (c) of the MFMA (8/1/8/1):
(Page 213: Finance Committee - Agenda 2023-05-17)

The Committee received a report submitted in accordance with Section 116(3) (a), (b) and (c) of the Local Government: Municipal Finance Management Act No. 56 of 2003 for the proposed amendment of Contract S5257 for the Supply and Delivery of Bond Paper A3 and A4 80g/m sheet, 90g/m Short Grain and NCR Paper for a period of thirty-six (36) months. The Supply Chain Management Unit has been assigned to have a contract in place for Line Departments. The City has a significant number of employees and has an obligation to provide the Bond paper and NCR paper Municipal-wide. The suppliers are required to supply and deliver quality product in a form of relevant SABS approved specification. The contracts were awarded to Hospanoe cc and Uzamile Trading CC for a period of thirty-six (36) months commencing on 01 August 2022 ending 31 August 2025. The corporate contract covers all Departments and Entities such as Moses Mabhida and the Inkosi Albert Luthuli Durban International Convention Centre. In motivating the submission, the following salient features of the report were also noted:-

- (i) Approved Special condition of tender (SCC17) states that “Prices are fixed for the duration of contract” however due to the ongoing cost pressure, suppliers could not hold the awarded prices as the Mill was enforcing price increases.
- (ii) Contract amendment to clause SCC 17 be amended to read as “Price adjustments shall be substantiated by a letter from the Mill confirming percentage increases, which shall be submitted a month prior to its inception for approval and further seek approval from Bid Adjudication committee if required”.
- (iii) Awarded Suppliers be paid back for price variation of all orders delivered for the Quantities supplied to the Municipality stores for proposed year 1 cost.

It being further noted that Mill have issued price increases last year in 2022 during the evaluation and tender award one price increase this year (2023):

The Tables below outlines changes from the original awarded prices to the proposed increases:

Bond Paper Increase (Uzamide Trading):

| No. | TYPE OF PAPER | DESCRIPTION | Current Unit Price Per Ream - Year 1 (Excl. VAT) | Percentage Increase (13%) | Percentage Increase (11%) | Percentage Increase (9%) |
|-----|---------------|--|--|---------------------------|---------------------------|---------------------------|
| 01 | REAMS WHITE | A4 WHITE BOND PAPER 80 GRAMS | R60.00 | R67.80 | R75.26 | R82.03 |
| 02 | REAMS MINT | A4 COLOURED BOND PAPER 80 GRAMS | R109.00 | R127.53 (17% increase) | - | - |
| 03 | REAMS CHERRY | A4 COLOURED BOND PAPER 80 GRAMS | R109.00 | R127.53 (17% increase) | - | - |
| 04 | REAMS SKY | A4 COLOURED BOND PAPER 80 GRAMS | R109.00 | R127.53 (17% increase) | - | - |
| 05 | REAMS CANARY | A4 COLOURED BOND PAPER 80 GRAMS | R109.00 | R127.53 (17% increase) | - | - |
| 06 | REAMS WHITE | A3 WHITE BOND PAPER 80 GRAMS | R135.00 | R148.50 | R164.83 | R179.66 |
| 07 | REAM | SHORT GRAIN 80G WHITE BOND PAPER 620X930MM | R1300.00 | (5% increase) R1365.00 | (4% increase) R1419.60 | (5% increase) R1490.58 |

Bond Paper Increase (Hospanoe):

| No. | TYPE OF PAPER | DESCRIPTION | Current Unit Price Per Ream - Year 1 (Excl. VAT) | Percentage Increase (10%) | Percentage Increase (11%) | Percentage Increase (9%) |
|-----|---------------|---------------------------------|--|---------------------------|---------------------------|--------------------------|
| 01 | REAMS WHITE | A4 WHITE BOND PAPER 80 GRAMS | R59.00 | R66.67 | R74.00 | R80.66 |
| 02 | REAMS MINT | A4 COLOURED BOND PAPER 80 GRAMS | R94.00 | R109.98 (17% increase) | - | - |
| 03 | REAMS CHERRY | A4 COLOURED BOND PAPER 80 GRAMS | R94.00 | R109.98 (17% increase) | - | - |

| No. | TYPE OF PAPER | DESCRIPTION | Current Unit Price Per Ream - Year 1 (Excl. VAT) | Percentage Increase (10%) | Percentage Increase (11%) | Percentage Increase (9%) |
|-----|---------------|--|--|---------------------------|---------------------------|---------------------------|
| 04 | REAMS SKY | A4 COLOURED BOND PAPER 80 GRAMS | R94.00 | R109.98 (17% increase) | - | - |
| 05 | REAMS CANARY | A4 COLOURED BOND PAPER 80 GRAMS | R94.00 | R109.98 (17% increase) | - | - |
| 06 | REAMS WHITE | A3 WHITE BOND PAPER 80 GRAMS | R119.00 | R130.90 | R145.29 | R158.36 |
| 07 | REAM | SHORT GRAIN 80G WHITE BOND PAPER 620X930MM | R1186.00 | (5% increase) R1245.30 | (4% increase) R1295.11 | (5% increase) R1359.86 |

At the Executive Committee level, administrative processes with regards to the supply chain management procedures were acknowledged. However, reservations were also expressed on what was viewed as continuous use of Section 116 (3) and Section 36 of the Local Government: Municipal Finance Management Act No. 56 of 2003 (MFMA), mention being made that this was previously flagged by the National Treasury and the Auditor-General as a cause for some of the irregularities.

On the other hand, provision of essential items not being prioritised, including supply of printing and toilet papers was perceived as a hinderance to service delivery. However, it being noted that the availability of these items was impacted by the level of stock in the industry following the flood damages. The Municipality was requested to be proactive in future to avoid Municipal operations being halted. Notwithstanding that the World was transitioning to the 4th Industrial Revolution and that other processes would be undertaken through digital platforms; indication was given that a need still exists for printing and distribution of some documents.

Administration being tasked to ensure sufficient printing paper is available, also sufficient printing machines in good working condition to avoid inconveniencing the Municipal processes which later even inconvenience the members of the public due to failure to supply them with documents required from the Municipality.

With assurance being given that an investigation has commenced on the utilisation of Section 116 (3) and Section 36 of the MFMA,

COMMITTEE RECOMMENDS:

3.5.1

That Council notes the following reasons necessitating the amendment of Contract S5257, in terms of Section 116 (3) of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003, for the Supply and Delivery of Bond Paper and NCR paper for a period of thirty-six (36):

- (i) Force Majeure relating to the impact on supply of paper due to the flooding of Mill.

- (ii) Input cost relating to the production and delivery of paper from Merebank operation.
- (iii) Cost in coal, energy, water, transport pulp.

3.5.2

That Council notes the public participation process was advertised through the media, in terms of Section 116(3)(b)(i) of the MFMA, as part of achieving compliance requirements pertaining to the public participation process to invite public comments on the proposed contract amendment, it being further noted that there were no comments received from the public consultation process.

Financial Implications:

Funding for Supply and Delivery of Bond Paper and NCR paper will be provided in the operational budget to cater for all line departments and Councillors. The details of the current contract S5257, including Unit Rates, and the proposed rates for the Section 116(3) authorisation is shown in table 4.4 (Price Comparison - Current with proposed prices) in the report of Acting Head : Supply Chain Management dated 2023-02-28.

Below are the proposed amended unit rates per ream for year 1 price per item:

1. Bond Paper Only:

| NO | ESTIMATED QUANTITIES | TYPE OF PAPER | DESCRIPTION | UZAMILE TRADING Proposed Unit Price per Ream Year 1 (excl. VAT) | HOSPANOE cc Proposed Unit Price per Ream Year 1 (excl. VAT) |
|----|----------------------|---------------|--|--|--|
| 01 | 1 500 000 | Reams White | A4 White Bond Paper 80 Grams | R82.03 | R80.66 |
| 02 | 5 000 | Reams Mint | A4 Coloured Bond Paper 80 Grams | R127.53 | R109.98 |
| 03 | 5 000 | Reams Cherry | A4 Coloured Bond Paper 80 Grams | R127.53 | R109.98 |
| 04 | 6 000 | Reams Sky | A4 Coloured Bond Paper 80 Grams | R127.53 | R109.98 |
| 05 | 5 000 | Reams Canary | A4 Coloured Bond Paper 80 Grams | R127.53 | R109.98 |
| 06 | 10000 | Reams White | A3 White Bond Paper 80 Grams | R179.66 | R158.36 |
| 07 | 2 700 000 | Ream | Short Grain 80g White Bond Paper 620x930mm | R1490.86 | R1359.86 |

2. NCR Paper Only:

| NO | ESTIMATED QUANTITIES | TYPE OF PAPER | DESCRIPTION | HOSPANOE cc Proposed Unit Price per Sheet Year 1 (excl. VAT) |
|----|----------------------|--------------------|---------------------|---|
| 01 | 75 000 | CB 55 grams sheet | A3 White NCR paper | R0.76 |
| 02 | 75 000 | CFB 60 grams sheet | A3 White NCR paper | R0.80 |
| 03 | 75 000 | CB 55 grams sheet | A3 White NCR paper | R0.66 |
| 04 | 30 000 | CB 55 grams sheet | A3 Yellow NCR paper | R0.75 |
| 05 | 30 000 | CFB 60 grams sheet | A3 Yellow NCR paper | R0.83 |
| 06 | 30 000 | CB 55 grams sheet | A3 Yellow NCR paper | R0.69 |

| NO | ESTIMATED QUANTITIES | TYPE OF PAPER | DESCRIPTION | HOSPANOE cc Proposed Unit Price per Sheet Year 1 (excl. VAT) |
|----|----------------------|--------------------|--------------------|---|
| 07 | 30 000 | CB 55 grams sheet | A3 Green NCR paper | R0.75 |
| 08 | 30 000 | CFB 60 grams sheet | A3 Green NCR paper | R0.83 |
| 09 | 30 000 | CB 55 grams sheet | A3 Green NCR paper | R0.69 |
| 10 | 30 000 | CB 55 grams sheet | A3 Blue NCR paper | R0.75 |
| 11 | 30 000 | CFB 60 grams sheet | A3 Blue NCR paper | R0.83 |
| 12 | 30 000 | CB 55 grams sheet | A3 Blue NCR paper | R0.69 |
| 13 | 30 000 | CB 55 grams sheet | A3 Pink NCR paper | R0.75 |
| 14 | 30 000 | CFB 60 grams sheet | A3 Pink NCR Paper | R0.83 |
| 15 | 30 000 | CB 55 grams sheet | A3 Pink NCR Paper | R0.69 |
| 16 | 15 000 | CB 55 grams sheet | A3 Buff Tag Board | R2.00 |

With the following political parties ANC, DA, ACC, and EFF, confirming support of the and further made an appeal that controls should be strengthened to prevent unnecessary wastage of paper as being one of the contributing factors towards shortage of paper.

The recommendations were accordingly **ADOPTED.**

3.6

Budget Statement Report for the Month Ended 30 April 2023 (7/1/4):
(Page 247: Finance Committee - Agenda 2023-05-17)

In giving an overview, the Head: Expenditure took the meeting through the salient features of the report relative to the actual operating revenue of 99% of the year-to-date budget, with a variance of -1%, and revenue generated to date is 87.2%. The actual operating expenditure reported as a percentage of year-to-date budget figure is 95% with a variance of -5% and Operating Expenditure spent to date is 76,5%. The reported capital expenditure is 98% of the budget with a variance of -2% and the capital year to date spent is 48.4%. A cash collection of 93.17% as at the end of April 2023 was reported, and slightly lower when compared to the same period in the previous year (94%).

Upon deliberations, the Committee unanimously stressed that debt collection strategies be strengthened to recover monies owed by customers including Government Departments, Ingonyama Trust and Parastatals. Irregular expenditure, unread water, and electricity meters for prolonged periods, underspending on maintenance budget, lack of capacitation of the supply chain management unit; also, being cited as a hindrance to sound financial management. A request being made for submission of an update report on the Court case between the Municipality and Tansnat, as some members were of the view that an interim report detailing the status quo and not the actual evidence can be shared with the Committee for information purposes. In this regard, a response being given, that it will be premature for the Committee to discuss the matter while the Court case was ongoing, and therefore, the report would be submitted to the Committee once the matter has been concluded.

At the Executive Committee level, the significance of strengthening revenue collection strategies was reiterated, it being cited that the Municipality should strive to enforce measures to address water and electricity illegal connections throughout the

Municipality. Mention being made that funds to be recovered from debtors will also assist the Municipality to fastrack purchasing and installation of SMART meters.

In view of the foregoing,

COMMITTEE RECOMMENDS:

- 3.6.1 That the Budget Statement report for the month ended 2023-04-30 and the supporting documents, submitted by the City Manager as per his report dated 2023-05-12, in compliance with Section 71 of the Municipal Finance Management Act 56 of 2003 and in terms of Government Notice 32141 dated 17 April 2009, relating to the “Local Government: Municipal Finance Management Act 2003, the Municipal Budget and Reporting Regulations”, be noted.
- 3.6.2 That in compliance with Section 32(2) of the Municipal Finance Management Act, Council notes the Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) incurred for the month of April 2023 reported by the line departments as detailed in section 10 of the Budget Statement Report.
- 3.6.3 That Council refers that the UIFW referred to in .2 above to the Municipal Public Accounts Committee (MPAC) for investigation into the recovery or write-off of the said expenditure in terms of Section 32(2)(b) of the Municipal Finance Management Act and request MPAC to report back to Council on the outcome of its investigations.

The following political parties (DA and IFP) had speakers allocated to debate on this item, however the speakers from both political parties withdrew their comments on the basis that the item was outdated given time which has lapsed prior to discussing the matter.

Commenting on the matter the ANC referred to the budget speech previously presented by His Worship the Mayor, confirmation being given that effective budget allocation has been made to assist the Municipality to address prevailing service delivery challenges, including aging infrastructure. That the eThekweni residents will see noticeable progress in addressing service delivery matters.

Item 3.6.1 & 3.6.2 NOTED, & Item 3.6.3 ADOPTED.

- 3.7 Investments Report for the Month Ended 30 April 2023 (7/11/4):
(Page 418: Finance Committee - Agenda 2023-05-17)

The Committee noted the Municipal funds invested at different Financial Institutions are recorded to amount to R9 279 Billion, at an average rate of return on investments of 8.50%. Also, that the Municipality has an overdraft facility of R682 Million and the unutilised Capital and Operational Grants as at the end of April 2023 was reported to be R3 569 Million. It being further noted that there was 46 (forty-six) days cash on hand excluding grants.

Accordingly,

COMMITTEE RECOMMENDS:

That the report on investments for eThekweni Municipality as at 2023-04-30, which records the total funds invested at financial institutions as R9 279 000 000.00

(Nine Billion Two Hundred and Seventy-Nine Million Rand), at an average rate of return on investment of 8,50%, as submitted by the City Manager, in line with the requirements of the Municipal Cash Management and Investment Regulation of the Municipal Finance Management Act, 2003, be noted.

NOTED.

4. REPORT OF THE SECURITY AND EMERGENCY SERVICES COMMITTEE:
MEETING HELD: 2023-05-18.

(Page R13)

4.1 Approval of Terms of Reference for the Security & Emergency Services Committee:
(Page 26 : Security and Emergency Services Committee - Agenda 2023-05-18)

It will be recalled that through a Council decision, the Security and Emergency Services Committee was established. This then gave rise to a need to separate the Terms of Reference of this Committee. Accordingly, the Legal and Compliance Unit initiated the process which culminated in the submission of the draft Terms of Reference document to the Committee.

The Committee invested time to unpack the draft Terms of Reference document during its workshop held on 21 April 2023. With the Committee having finalised the document and accepting that it covers areas falling within the jurisdiction of the Committee's core functions,

COMMITTEE RECOMMENDS:

That, in noting the previous Council decision to establish the Security and Emergency Services Committee, the Executive Committee approves the Terms of Reference developed for this Committee and recommend same to Council, it being recorded that the Terms of Reference focuses on the Committee's core functions to formulate policies and monitor implementation within the following functional areas:

- a) Metro Police Services;
- b) Civilian Oversight Functions.
- c) Disaster Management;
- d) Firefighting Services;
- e) Safer Cities; and
- f) Security Management
- g) Integrated Development and Planning, Budgets and Budgetary Control;
- h) Make recommendations with regard to the setting or revision of tariffs, taxes, levies
- i) To develop draft By-laws on matters incidental to the Committee's Terms of Reference

ADOPTED.

4.2 Request for Authority to Transfer Savings Declared by the Safer Cities in the 2022-23 Financial Year to the Parks, Culture and Recreation Unit (28/1/4):
(Page 183 : Security and Emergency Services Committee - Agenda 2023-05-18)

The Safer Cities had made provisions of R8.1 million on its capital budget for the purpose of constructing Inner City Homeless Safe Sleeping Space at Block AK in Greyville, Durban. The site which was earmarked for this building subsequently became unavailable. This resulted in a nearby site in the Corner of Osborne and Gladys Manzi Roads (Erf Rem of 1589) being identified for this purpose. This is a vacant land which needs to be assessed in line with the requirements of the Land Use Management Scheme.

With the land process not to be finalised given the imminence of the financial year, it is considered prudent to transfer the savings declared to the Parks; Recreation and Culture Unit for the purpose of purchasing tractors and improve the level of service delivery. Given the significance of addressing homelessness within the City, an arrangement has been made with the PRC Unit that the funding being transferred will be returned in the new financial year budget to enable the Safer Cities to fulfil its mandate of constructing the facilities required to address the issue of homelessness.

At the Executive Committee level, the bold and progressive initiative by the Municipality through Safer Cities Unit was welcomed. Mention being made that homelessness was a global challenge, it being noted that other Cities have also embarked on similar initiatives as part of mitigation measures to address this challenge, therefore; the Municipality was commended for being proactive in this regard; also, for being able to benchmark and partner with other Cities to share possible ideas and interventions.

Information being given that the Municipality will undertake the screening process to determine the total number of homeless people within the City, identifying those in need of identification documents, to ascertain the number of foreign nationals etc in homeless safe sleeping space. It being reiterated that the Unit is currently addressing land issues and once all matters related thereto have been concluded; all processes to finalise construction of the sleeping space will commence. Meanwhile, assurance was given that update report on the status of all shelters established during the Covid-19 pandemic period will be submitted to the Executive Committee. That a report thereon should include the number of people still being housed in these facilities; relief mechanism still supplied by the Municipality and other Non-Governmental Organisations and Non-Profit Organisations.

With the Committee being satisfied that the arrangement made present a win-win solution;

COMMITTEE RECOMMENDS:

- 4.2.1 That the Committee notes that an amount of R8 100 000.00 (Eight Million One Hundred Thousand Rand) under the capital budget of the Safer Cities Unit is declared as savings in the current 2022-23 financial year, in view of a lengthy process to be followed to finalise the suitability of the land identified for the Inner City Homeless Safer Sleeping Space Facility in the Corner of Osborne and Gladys Manzi Roads (Erf Rem of 1589), in line with the Land Use Management Scheme.

4.2.2 That, subsequent to the approval of .1, authority be granted for the Deputy City Manager: Community and Emergency Services to transfer funds in the amount of R8 100 000.00 (Eight Million One Hundred Thousand Rand) from the Safer Cities Unit to the Parks, Recreation and Culture Unit in the current 2022/2023 financial year for the procurement of tractors, as detailed in the report of the Head: Safer Cities dated 2023-05-05.

4.2.3 That it be noted that, in terms of the agreement reached, the Parks, Recreation and Culture Unit will transfer the funds referred to in .2 above back to the Safer Cities Unit upon the approval of the 2023/2024 financial year for the Safer Cities to continue fulfilling the mandate of constructing a facilities for homeless people within the Inner City of eThekweni.

Financial Implications:

Transfer to be actioned from the Vote below:

| BU | ITEM | FUNDING | COSTING | PROJECT | REGION |
|-------|----------|---------|---------|---------|--------|
| 24511 | 45304.22 | 91104 | 0000 | N2684 | W026 |

To the Vote below:

| BU | ITEM | FUNDING | COSTING | PROJECT | REGION |
|-------|-------|---------|---------|---------|--------|
| 18001 | 44245 | 30015 | 0000 | PC8800 | 0010 |

The DA commenced by appreciating the procurement of new tractors, since the last procurement was done in 1996 as per the Head: Parks, Recreation and Culture. Speaking on the issue of uncompleted land processes for the homeless facility, this was considered unacceptable and that priority be given to addressing the needs of homeless people within the City thereby addressing social ills. It was then emphasized that when the budged was returned to the Safer Cities Unit the building of the homeless facility be prioritized.

Supporting the matter, the IFP expressed concerns around poor planning on the basis that vacant land was identified to build the facility for the homeless but this did not materialize. The IFP was of the view that this aspect required implementation of consequence management to ensure that responsible officials are held accountable for poor performance.

While supporting the matter, the APF expressed concern that the issue of land ownership was still not adequately addressed, and echoing sentiments that the issue of building facility for homeless people be accelerated.

The ACDP appreciated the report and acknowledged the decision by the Safer Cities Unit to reallocate savings identified to pursue other projects achievable within the fiscal year. An emphasis was made that the budget as transferred be utilised appropriately for improved service delivery.

Accordingly, the recommendations were **ADOPTED.**

5. **DIRECT EXCO REPORTS**

5.1 **NOTING OF SALARY AND WAGE INCREASE FOR GENERAL STAFF FOR THE PERIOD 01 JULY 2023 TO 30 JUNE 2024 (4/5/1/1)**

(Page 112)

The Executive Committee received a report on the salary and wage increase of the general staff for the 2023/2024 financial year. Background information being given that, in its meeting of 14 March 2023, the Bargaining had reached consensus on the salary and wage collective agreement.

It being noted that the Municipality had made a budget provision for cost-of-living increase at the rate of five comma five percent (5.5%), which is above the SALGA approved salary and wage increase of five comma four percent (5.4%). Also, that the performance rewards have been unpaid for the past two (02) years, the 2020/2021 financial year a once off payment was approved for levels below Task Grade 09 only, and that performance rewards for the period 2021/2022 is under discussion at South African Local Government Bargaining Council (SALGBC) but has not been paid, and that this affects the employees notch increase, and standard of living for Municipal employees. It being further noted that failure to implement the salary and wage increase may lead to unnecessary strike action which could also lead to tension between workers and management thereby affecting provision of service delivery.

While noting the report, the DA expressed reservations on the proposed increase, citing low productivity in terms of service delivery. However, other members took into cognisance that salary and wage increases were discussed at the National level of the Bargaining Council and the agreement was being applied to all Municipalities. That the issue of low productivity to be dealt with parallel with discussions on performance management and payment of bonuses thereof. The attention was also drawn to the fact that the Municipality should be a caring employer to its employees, taking into account the economic hardships, thereby improving morale to subsequently improve productivity.

Subsequently,

COMMITTEE RECOMMENDS:

- 5.1.1 That Council notes the salary and wage increase in respect of the 2023/2024 financial year for the period from 01 July 2023 to 30 June 2024, it being recorded that this agreement was made by SALGA, and two Municipal employees Unions and as per the salary and wage collective agreement dated 15 September 2021 shall be as follows:
- a) The salary and wage increase in terms of Clause 6.6 and 6.7 of the collective agreement shall be five comma four percent (5.4%) with effect from 01 July 2023.
 - b) Any linked benefits or conditions of service as per Clause 11.1 of the collective agreement shall increase by the same rate of five comma four percent (5.4%) with effect from 01 July 2023.
 - c) The minimum wage as stipulated in Clause 7.3 of the collective agreement shall increase with the same rate of 5.4% from R9043.21 (Nine Thousand and

Forty-Three Rand Twenty-One Cent) to R9531.54 (Nine Thousand Five Hundred and Thirty-One Rand Fifty-Four Cents). The new minimum wage shall be R9531.54 (Nine Thousand Five Hundred and Thirty-One Rand Fifty-Four Cents) with effect from 01 July 2023.

- d) The flat rate homeowners' allowance in terms of Clause 9.1.9 of the collective agreement shall increase by the same rate of five comma four percent (5.4%) from R1011.77 (One Thousand and Eleven Rand Seventy-Seven Cents) to R1066.41 (One Thousand and Sixty-Six Rand Forty-One Cent) with effect from 01 July 2023.
- e) In respect of medical aid, the maximum employer contribution to an employee's accredited medical scheme as out in Clause 10.1.3 of the collective agreement shall increase by the same rate of five comma four percent (5.4%) from R5007 (Five Thousand and Seven Rand) to R5277.38 (Five Thousand Two Hundred and Seventy-Seven Rand Thirty-Eight Cents) with effect from 01 July 2023.
- f) The CPI projected figures from South African Reserve Bank are used to calculate the salary and wage related increase.

5.1.2 That Council notes that cost of living increase has been budgeted at the rate of five comma five percent (5.5%) which is above the SALGA approved salary and wage increase of five comma four percent (5.4%).

5.1.3 That Council notes that the performance rewards have been unpaid for the past two (02) years, the 2020/2021 financial year a once off payment was approved for levels below Task Grade 09 only, and performance rewards for the period 2021/2022 is under discussion at South African Local Government Bargaining Council (SALGBC) but has not been paid, which this affects the employees notch increase, and standard of living for municipal employees.

While the IFP was in support of the item it was emphasized that salary increases should be commensurate with productivity levels. That consequence management be implemented to curb poor performance. The APF shared similar sentiments that of employees adequately executing their duties and to penalize poor performance.

The ANC then reminded Council that salary increases are negotiated at the South African Local Government Bargaining Council (SALGBC) level where Municipalities are represented by the South African Local Government Association (SALGA) and with employees being represented by Labour (SAMWU and IMATU). That the item has already been approved at the said level and with the Council expected to note the outcome of salary negotiations. The ANC supported and noted increase, taking cognizance that, due to budget constraints, the Municipality has been unable to pay staff performance bonus for two (02) consecutive years.

Thereafter, the recommendations were NOTED.

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

SECOND REPORT OF THE EXECUTIVE COMMITTEE

(Meeting held 2023-05-30)

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

1. REPORT OF THE COMMUNITY SERVICES COMMITTEE: SPECIAL MEETING HELD: 2023-05-22

(Page R1)

1.1 Request for Approval for the Health Unit to Enter into a Memorandum of Agreement with Chatsmed Candlelight Nursing School FET for Clinical Practical Student Placement (6/1):

(Page 60: Community Services Committee - Agenda 2023-05-22)

The Committee noted that the eThekweni Municipality Health Unit has a quality assurance and training section that seeks to improve quality of service provided to the community and citizens of eThekweni through capacity building for clinical and non-clinical staff and improved service standards as aligned with National Department of Health and NHI prescripts. This is also made possible by ensuring that Municipal clinics provide placement for clinical training for students.

Apart from our Municipal staff, institutions of higher learning that trains different cadres of health care workers (Doctors, Pharmacists, nurses etc) also utilises health facilities for clinical training, exposure and acquisition of skills as a requirement by different Health Governing Councils. On such basis, it was noted that Health Unit currently works with Universities/Colleges around eThekweni that places students for clinical practise for different qualifications in Municipal clinics.

The attention was drawn to the fact that the South African Nursing Council (SANC) has revised qualifications and training programmes that resulted to some qualifications discontinued and, with the re-introduction of others in a more comprehensive and upgraded form. This warrants Colleges/Universities to re-apply for accreditation for these new qualifications, and then signing of a Memorandum of Agreement.

With the Committee being in support of this great initiative,

COMMITTEE RECOMMENDS:

That authority be granted for the Head: Health to enter into a Memorandum of Understanding with Chatsmed Candlelight Nursing School FET for the placement of batches of newly designated cadres of students in healthcare facilities, as per the South

African Nursing Council accreditation requirements for courses projected to commence in January 2024.

Financial Implications:

None.

ADOPTED.

1.2 Request for Approval for the Health Unit to Enter into a Memorandum of Understanding with St. Mary's Hospital Nursing College FET for Clinical Student Placement (6/1):

(Page 64: Community Services Committee - Agenda 2023-05-22)

This relates to the same arrangement where the Municipal Clinics accept students for clinical training, exposure and acquisition of skills as a requirement by different Health Governing Councils. This then requires the signing of the Memorandum of Understanding for this relationship to be managed within a structured framework. The institution involved in this respect is the St Mary's Hospital Nursing College FET.

With the Committee still being greatly appreciative of this opportunity in view of significant contribution being made in the health sector,

COMMITTEE RECOMMENDS:

That authority be granted for the Head: Health to enter into a Memorandum of Understanding with the St Mary's Hospital Nursing College FET for the placement of batches of newly designated cadres of students in healthcare facilities, as per the South African Nursing Council accreditation requirements for courses projected to commence in January 2024.

Financial Implications:

None.

ADOPTED.

2. REPORT OF THE ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE: MEETING HELD: 2023-05-22

(Page R5)

2.1 Request for Authority to Enter into and Sign a Memorandum of Understanding Between eThekweni Municipality and Warwick Zero Waste Project (24/8/4):

(Page 1 : Economic Development and Planning Committee - Agenda 2023-05-22)

Authority is sought for the Business Support, Markets, Tourism and Agribusiness; Parks, Recreation and Culture Unit; as well as the Cleansing and Solid Waste Unit, to officially partner with the Warwick Zero Waste Project, led by the Durban University of Technology (DUT); Urban Future Centre; Groundwork; and Asiye eTafuleni. Additionally, authority is sought for the City Manager to enter into a Memorandum of Understanding with the aforementioned institutions. The Warwick Zero Waste project started in early 2021 for the purpose of creating a zero-waste to landfill case study, focusing on the informal markets in Durban's Warwick Junction. The ultimate goal is to create an "easy to replicate, zero waste to landfill case study for large informal markets commonly found in Africa".

The proposed partnership and the involvement of the Municipal Units identified is informed by establishing that sending food waste to landfill is the least preferred treatment option. The most preferred options are either to prevent waste or divert waste to feed animals or people. The Units identified incur costs ranging from i) food waste removal from the markets; ii) garden waste removal; and iii) waste transportation and landfilling. Therefore, the Zero Waste Project is all about diversion of food and garden waste from landfill into composting production thereby saving costs. The intention then is to formalise the partnership model amongst the institutions identified.

The impact that the City can make by entering into this partnership include:

- (i) Financial Impact in terms of savings on waste disposal for Early Morning Market (EMM) and Botanic Gardens, as well as savings on compost purchase by the Parks, Recreation and Culture Unit, including savings on landfill and airspace costs for the Cleansing and Solid Waste Unit.
- (ii) Employment Impact in terms of creation of new green employment opportunities for the City.
- (iii) Climate and Environmental Impact in terms of GHG emission reductions from compost production (especially methane) and reduced transport as well as production of compost to replenish the soil.
- (iv) Impact on Traders in terms of re-investment of savings into EMM infrastructure toward improved working conditions, increased education about the impact of food waste.
- (v) Institutionalisation Impact in terms of successful transversal partnership model and creation of a strong circular economy model for replication.
- (vi) Educational Impact in terms of creation of training opportunities for students and creation of broad awareness and education around food waste.

Thereafter, the DA, IFP and the ACDP abstained on this matter at the Support Committee level, and with the other Parties present being in support.

The Executive Committee considered the matter and advised that Parties requesting to have site of the final Memorandum of Understanding could make the necessary arrange but that the Committee needs to grant authority to the administration to continue processing this document. On the issue of the other companies being regarded to be operating for profit, it was clarified that all companies to partner with the City and listed herein occupy a status of being Non-Profit Organisations.

COMMITTEE RECOMMENDS:

2.1.1

That Council approves a partnership model involving the Business Support, Markets, Tourism and Agribusiness; Parks, Recreation and Culture Unit; and the Cleansing and Solid Waste Units to officially partner with the Warwick Zero Waste Project led by Durban University of Technology; Urban Future Centre; Ground Work; and Asiye eTafuleni, for the purpose of creating a zero-waste to landfill case study, focusing on the informal markets in Durban's Warwick Junction, and with the ultimate goal of creating an "easy to replicate, zero waste to landfill case study for large informal markets commonly found in Africa.

- 2.1.2 That, subject to the approval of .1 above, authority be granted for the City Manager to enter into and sign a 3-year Memorandum of Understanding with the Durban University of Technology; Urban Futures Centre; Groundwork; and Asiye eTafuleni to implement the zero-waste project.

ADOPTED.

- 2.2 Authority to Enter into Funding Agreement with Special Rating Area Management Companies (7/2/1):
(Page 5 : Economic Development and Planning Committee - Agenda 2023-05-22)

Authority is sought for the City Manager to enter into new three-year funding agreements with the Special Rating Area Management Companies for the Special Rating Areas (SRAs) established by the eThekweni Municipal Council in terms of Section 22 of the Local Government: Municipal Property Rates Act; the eThekweni Rates Policy; and the eThekweni SRA Policy.

Urban Precinct Management is an important strategy of the eThekweni Municipality's Integrated Development Plan to enable the Municipality to partner with property owners, businesses and the broader community to improve and maintain demarcated SRAs in which property owners pay an additional rate for this purpose. The aim is to create well-maintained, safe and attractive public spaces to support the social and economic functions of these precincts and thereby to retain and attract investment, to increase property values and sustain the rates income of the Municipality in order in order to build healthy and socially integrated communities.

In order to give effect to the SRA, additional rates are collected as per the statutory requirement. Thereafter, the equivalent value of the collected additional rates is then paid over to the SRA Management Companies. It is therefore necessary to enter into a funding agreement for the transfer, administration and compliance management related to these funds. The Municipality then intends entering into a 3-year funding agreement, with effect from July 2023 to June 2026, with the following SRAs:

- (i) Umhlanga Promenade UIP
- (ii) Umhlanga Village UIP
- (iii) Florida Road UIP
- (iv) South Beach UIP (Inner City)
- (v) Central Business District UIP (Inner City)
- (vi) Northeast Business UIP (Inner City)
- (vii) Glenwood UIP (Commercial Node)
- (viii) Perth West UIP (Westville)
- (ix) Maytime UIP (Kloof)
- (x) Burlington Height UIP
- (xi) Pigeon Valley UIP

With the Committee being in support of initiatives promoting economic growth,

COMMITTEE RECOMMENDS:

- 2.2.1 That authority be granted for the City Manager to enter into new 3-year Funding Agreements between the eThekweni Municipality and the Special Rating Areas Companies listed in .2 below, and with the agreement effective July 2023 to June 2026, for the purpose of transferring collected additional rates relating to Special Rating Areas in terms of Section 67 of the Local Government: Municipal Finance

Management Act, No. 56 of 2003, and with the SRAs aimed at creating well-maintained; safe; and attractive public spaces to support the social and economic functions of the precincts, thereby attracting and retaining investment to increase property values and sustain the rates income of the Municipality, in order to build healthy and socially integrated communities, and with the Funding Agreement to then manage the transfer, administration and compliance management related to these funds.

2.2.2 That subject to .1 above, Council notes the Special Rating Areas Companies to partner with the eThekweni Municipality are as follows:

- (i) Umhlanga Promenade UIP
- (ii) Umhlanga Village UIP
- (iii) Florida Road UIP
- (iv) South Beach UIP (Inner City)
- (v) Central Business District UIP (Inner City)
- (vi) Northeast Business UIP (Inner City)
- (vii) Glenwood UIP (Commercial Node)
- (viii) Perth West UIP (Westville)
- (ix) Maytime UIP (Kloof)
- (x) Burlington Height UIP
- (xi) Pigeon Valley UIP

2.2.3 That the Head: Economic Development oversee the monitoring and reporting requirements as per the provision of Section 67 of the Local Government: Municipal Finance Management Act No. 57 of 2003, and as per the provision in terms of the Funding Agreement.

ADOPTED.

2.3 Application in Terms of Section 26 of the eThekweni Municipality: Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) for the Amendment of the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme: Section 7: Development Facilitation Table: Limited Commercial 2 Zone (21/7/4): (Page 8 : Economic Development and Planning Committee - Agenda 2023-05-22)

Authority is sought for the amendment of the eThekweni Municipal Land Use Scheme: Outer west Sub-Scheme: Section 7: Development Facilitation Table: Limited Commercial 2 Zone by removing the Asterix (*) from “flat” in the Primary Land Use Column of the Limited Commercial Zone and amending additional Control No.5 in the limited Commercial 2 Zone as reflected in the report by City Manager dated 2023-05-22.

The proposal is broadly in line with the eThekweni Municipality’s objective to promote spatial efficiency by optimising development in areas of greatest opportunity and encourages efficient use of infrastructure and facilities. From a land use compatibility perspective, the subject site is deemed to be currently under-developed, and the proposed use will complement, improve, and provide additional uses within the Kloof suburb.

Given the explanation above, it was accordingly

COMMITTEE RECOMMENDS:

- 2.3.1 That in terms of Section 26(1) (b) of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) the application for the amendment of the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme: Section 7: Development Facilitation Table: Limited Commercial 2 Zone by removing the Asterix (*) from "flat" in the Primary Land Use Column of the Limited Commercial Zone and amending Additional Control No. 5 in the Limited Commercial 2 Zone and replacing with the following wording:

“where a building or buildings is used simultaneously for residential and commercial purposes each floor shall be set aside and used for one or the other purpose but not for both uses, provided that the residential use may be permitted at ground floor level where the design of a building is such that the residential use is not contiguous with the street”

be **APPROVED** for the following reasons:

- 2.3.1.1 The proposed scheme amendment is to enable the opportunity to facilitate appropriate mixed-use developments within the Limited Commercial 2 zone and to introduce flexibility related to the development of residential flats on sites zoned Limited Commercial 2.
- 2.3.1.2 From a land use compatibility perspective, the subject site is deemed currently under-developed, and the proposed use will complement, improve, and provide additional uses within the Kloof suburb.
- 2.3.1.3 All of the necessary commenting departments raised no objections to the proposal and found the application to be acceptable in terms of meeting all the necessary requirements.
- 2.3.1.4 The proposal is broadly in line with the eThekweni Municipality’s objective to promote spatial efficiency by optimizing development in areas of greatest opportunity and encourages efficient use of infrastructure and facilities.

- 2.3.2 The **eThekweni Municipality Land Use Scheme: Outer West Sub-Scheme**: Section 7: Development Facilitation Table: Limited Commercial 2 will be amended as follows:

- 2.3.2.1 Removing the Asterix (*) from "flat" in the Primary Land Use Column of the Limited Commercial Zone;

- 2.3.2.2 Amending Additional Control No. 5 from the Limited Commercial 2 zone and replacing with the following wording:

“where a building or buildings is used simultaneously for residential and commercial purposes each floor shall be set aside and used for one or the other purpose but not for both uses, provided that the residential use may be permitted at ground floor level where the design of a building is such that the residential use is not contiguous with the street”

The **eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme** will be amended to reflect the following amended development facilitation table:

| ZONE: LIMITED COMMERCIAL 2 | | | | | | |
|--|------------------------------|---|---|--|---|------------------|
| <p>SCHEME INTENTION: To provide, preserve, use land or buildings for medium impact commercial purposes. Accommodation of commercial or business activities within a residential area where the commercial activity provides a service to the residential community and is not detrimental to the residential amenity of the area.</p> <p>MAP COLOUR REFERENCE: Light blue with hatched black</p> | | | | | | |
| PRIMARY | | SPECIAL CONSENT | PRECLUDED | | | |
| <ul style="list-style-type: none"> Arts and Crafts Workshop Car Wash Conservation area Display Area Flat Flea Market Fuelling and Service Station Government/Municipal Laundry Motor Display Area Museum Office Parkade Pet Grooming Parlour Private Open Space Restaurant / Fast Food Outlet Shop | | <ul style="list-style-type: none"> Action Sports bar Adult Premises Agricultural Land Betting Depot telecommunications infrastructure Builder's Yard Convention Centre Crèche Educational Establishment Funeral Parlour Garden Nursery Health & Beauty Clinic Health Studio Motor Workshop Night Club Office – Medical Place of Public Entertainment Place of Public Worship Retirement Centre Student Residence Special Building Warehouse | <ul style="list-style-type: none"> Agricultural Activity Airport Animal facility Boarding House Chalet Development Container Depot Correctional Facility Cemetery/creatorium Direct Access Service Centre Dwelling House Escort Agency | <ul style="list-style-type: none"> Hotel Industry – Extractive Industry – General Industry – Light Industry – Noxious Institution Landfill Mobile Home Park and Camping Ground Mortuary Motor Garage Motor Vehicle Test Centre Multiple Development Unit Nature Reserve | <ul style="list-style-type: none"> Recycling Centre Reform School Refuse Disposal Riding Stables Scrap Yard Transport Depot Truck Stop Utilities Facility Veterinary Clinic Zoological Garden | |
| ADDITIONAL CONTROLS | | | | | | |
| <ol style="list-style-type: none"> *Excluding Hotel A builder's yard may be permitted by Special Consent of the Municipality Accommodation for motor vehicles to be provided on the erf as per Section 8 Subject to the provisions of a sewage disposal system to the satisfaction of the Municipality. Where a building or buildings is used simultaneously for residential and commercial purposes each floor shall be set aside and used for one or the other purpose but not for both uses, provided that the residential use may be permitted at ground floor level where the design of a building is such that the residential use is not contiguous with the street. | | | | | | |
| DEVELOPMENT PARAMETERS | | | | | | |
| SPACE ABOUT BUILDINGS | | DWELLING UNITS PER HECTARE | MINIMUM SUBDIVISION SIZE | HEIGHT IN STOREYS | COVERAGE | FLOOR AREA RATIO |
| BUILDING LINE: FRONT | BUILDING LINE: SIDE AND REAR | | | | | |
| 9 m | 3 m | N/A | Exclusively commercial-450 m ² /Commercial and Residential-1800 m ² | 3 | 50 % | 0.50 |

ADOPTED.

2.4 Request for Authority to Into a Memorandum of Agreement Between the eThekweni Municipality and the South African National Roads Agency Soc Limited (25/4/3/1):
(Page 16 : Economic Development and Planning Committee - Agenda 2023-05-22)

The South African National Roads Agency SOC Limited, referred to as SANRAL, is currently undertaking major infrastructure and investment to upgrade of the National Route (N3) from Durban to Johannesburg, and various sections in eThekweni Municipality and adjoining Municipalities. The upgrade referred to requires multiple

land acquisitions and expropriations, as well as the need to make the appropriate land development applications as per the relevant legislative requirements.

This is a Presidential Project and much needed, with the Municipality to benefit from the improved infrastructure.

With the amount of applications for subdivision, consolidations and expropriations required to achieve the necessary road widening and the impact to the Municipality, it has been established that the most efficient and effective route of engagement, and which SANRAL has undertaken with other Municipalities along the N3 Corridor Upgrade, is to enter into a Memorandum of Agreement (MOA) with the eThekweni Municipality. The proposed MOA will encapsulate all the legal, operational and detail procedures required to fastrack the application process for SANRAL within the ambit of the planning legislations.

The MOA will set a clear legal framework for the roles and responsibilities of each party, including operational, financial and legal implications. It should be noted that there are no financial implications envisaged for the eThekweni Municipality as all costs will be borne by SANRAL, but the long-term handing over of assets and maintenance will be covered in the MOA.

In a nutshell, the MOA will cover the following aspects:

- (i) Handover of Access Roads and Assets Agreement;
- (ii) Shared Responsibility Agreement; and
- (iii) Shortened SPLUMA Agreement

In view of the foregoing,

COMMITTEE RECOMMENDS:

- 2.4.1 That authority be granted for the City Manager to enter into a Memorandum of Agreement (MOA) with the South African National Roads Agency SOC Limited (hereafter referred to as SANRAL), for the purpose of outlining legal, operational and detailed procedures required to implement the Presidential Project to upgrade the National Route (N3) from Durban to Johannesburg, and various sections in eThekweni Municipality and adjoining Municipalities.
- 2.4.2 That the Executive Committee notes that the upgrade referred to in .1 above requires multiple land acquisitions and expropriations thus the requirement to enter into the MOA to fastrack the application processes for SANRAL within the ambit of the planning legislations, and it being noted that the MOA will set clear roles and responsibilities impacting operational, financial and legal implications, and to give effect to the aforementioned, the MOA will cover the aspects relating to (i) Handover of Access Roads and Assets Management; (ii) Shared Responsibility Agreement; and (iii) Shortened SPLUMA Agreement.
- 2.4.3 That the Executive Committee notes that there are no financial implications envisaged for the Municipality with regard to the N3 Corridor Route Upgrade as all costs will be borne by SANRAL, but that the long-term handing over of assets and maintenance will be covered in the MOA, it being recorded that should any financial implications emerge for the Municipality during negotiation of the terms and conditions of the MOA, a new request will be submitted to the Economic Development and Planning Committee for discussion in preparation for final approval by Council in that regard.

- 2.4.4 That progress report on the implementation of the MOA be submitted to the Municipal Council for noting and record purposes.

ADOPTED.

- 2.5 Request for Authority to Renew a Memorandum of Agreement Between eThekweni Municipality and Chemicals Industry Cluster for the Implementation of the Chemical Industry Development Programme (20/1/6/3):
(Page 78 : Economic Development and Planning Committee - Agenda 2023-05-22)

Chemical manufacturing is a key driver of transformation and provides meaningful employment for marginalized communities. It is crucial to the development of technological capabilities and jobs that are scalable and attractive. High-paying chemicals manufacturing has strong economic multipliers that can elevate a City to become a high-employment area. The Economic Development Unit's strong partnership with the Durban Chemicals Cluster helps 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. The Economic Development Unit aims to create a business environment that is supportive of investment in the chemicals sector through which companies can expand their businesses and climb up the economic ladder.

The Durban Chemicals Cluster Programme has been specifically devised to stimulate economic growth in the chemical sector through investment and growth, operational excellence as well as skills development and transformation activities. Chemicals manufacturing is a significant contributor to the City's revenue, with high value business such as SAPREF; Engen; Mondi; SAB; and AECI Chemicals. In just one (01) month, manufacturing contributes 64% or R128.2 Million in electricity; 44% or R51.7 Million in water; and 12% or R39.1 Million in rates revenue.

However, cognisance is taken that the Chemicals sector has recently experienced major disinvestment and downscaling of operations, with revenue losses from SAPREF and Engen being significant. The support of eThekweni Municipality is critical to the continued growth and sustainability of the chemicals manufacturing sector. In the KwaZulu-Natal region, the sector sustains approximately thirty thousand (30 000) direct jobs; hosts and supports a great number of indirect jobs through the strong multipliers associated with the sector.

Recognising the strategic importance of and significant contribution that the chemicals manufacturing industry plays in the local economy, the eThekweni Municipality has been a longstanding supporter of the sector through its partnership with the Durban Chemicals Cluster (DCC) since 2008. The DCC is a registered Non-Profit Company that has consistently received clean and unqualified audits and is also compliant with all major relevant legislative and governance requirements since its inception. The DCC has seventy-four (74) member firms and 34% of those are black-owned SMEs. The DCC is employing nine thousand eight hundred (9 800).

In term of the 31 August 2020 Council approval, an amount of R6 180 789.00 (Six Million One Hundred and Eighty Thousand Seven Hundred and Eighty-Nine Rand) for the support of the Chemicals Industry Development Programme and with the MOA approved in this regard expiring 30 June 2023. Authority is sought to renew the agreement, and with the programme to be now funded in the amount of

9.57 Million for a 3-year period and to be disbursed in tranches. The DCC intends delivery more impact; growth; and competitiveness for the critical manufacturing value chain. Key programmes in the Business Plan include:

- (i) Business Accelerator: This programme beams success after having supported fifty-five (55) small businesses, while supporting member firms to achieve B-BBEE compliance, and in this regard, three (03) small businesses were awarded cash prizes and receive mentorship.
- (ii) Youth Development Programme: This is aimed specifically at developing youth within the sector, as well as potential new entrants into the industry
- (iii) Development of Black-owned suppliers
- (iv) Enterprise Development Support, with export-oriented programmes

During discussion at the Support Committee level, the DA and the IFP abstained on this matter., it being noted that the other Parties present were in support.

It being highlighted at the Executive Committee level that SAPREF and Engine were currently not active and then enquiry on the reasons for being including in funding allocation, it was confirmed that this was provision at this stage until their businesses are resuscitated. Also, that endeavours are currently being made to support these companies through the Durban Invest Unit to ensure they recover their businesses accordingly. Also, attention being drawn on the engagements held at the National level with regard to investment pertinent to these companies.

Given the explanation,

COMMITTEE RECOMMENDS:

- 2.5.1 Given the significance of the chemicals manufacturing industry in the economy of eThekweni, Council approves the renewal of the Memorandum of Agreement (MOA) between the eThekweni Municipality and the Durban Chemicals Cluster (DCC) Non-Profit Company, with effect from July 2023 to June 2026, and also approves the funding contribution by the eThekweni Municipality in the amount of R9.7 Million for the DCC to undertake the Durban Chemicals Industry Development Programme, it being recorded that the chemicals manufacturing is a key driver of transformation and provides meaningful employment for marginalized communities.
- 2.5.2 That subject to approval of .1 above, authority be granted for the City Manager to conclude new Memorandum of Agreement to give effect to the above for the next three-year period, starting 01 July 2023 to 30 June 2026.
- 2.5.3 That subject to the approval of .1 and .2 above, authority be granted for the Head: Economic Development to, in terms of Section 67 of the Local Government: Municipal Finance Management Act No. 56 of 2003, and the terms and conditions of the MOA, disburse funds to the Durban Chemicals Cluster in the amount of R2 978 385 (Two Million Nine Hundred and Seventy Eight Thousand Three Hundred and Eighty Five Rand), excluding VAT, for the 2023/2024 financial year; R3 186 872 (Three Million One Hundred and Eighty Six Thousand Eight Hundred and Seventy Two Rand), excluding VAT for the 2024/2025 financial year; and R3 409 945 (Three Million Four Hundred and Nine Thousand Nine Hundred and Forty Five Rand), excluding VAT, for the 2025/2026 financial year.

2.5.4 That the Head: Economic Development present progress reports on the implementation of the programme and compliance with the terms and condition of the MOA on an annual basis.

| VOTE NUMBER | AMOUNT | FINANCIAL YEAR |
|---------------------------------------|---------------------|----------------|
| 26102.25445.240.12120.0000.38874.0010 | R2 978 385 (No VAT) | 2023/24 |
| 26102.25445.240.12120.0000.38874.0010 | R3 186 872 (No VAT) | 2024/25 |
| 26102.25445.240.12120.0000.38874.0010 | R3 409 945 (No VAT) | 2025/26 |

FC No. 2023/18/61

ADOPTED.

2.6 Scheme Amendment in Terms of the eThekweni Municipality: Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) to Introduce a New Zone Into the eThekweni Municipal Land Use Scheme: Central Sub-Scheme: Section 7: Development Facilitation Table Special Zone: Beachwood Coastal Estate (21/7/1):
(Page 170 : Economic Development and Planning Committee - Agenda 2023-05-22)

Authority is sought for the approval for Part A of a Combined Land Development Application submitted in terms of Section 26 of the eThekweni Municipality Planning and Land Use Management Second Amendment By-law, 2021 (Notice 95 of 2021) for several Categories of Land Development Application: Part A-J as outlined to the report by City Manager dated 2023-04-24.

A combined application has been submitted by SiVEST SA (Pty) LTD, on behalf of the registered owner Beachwood Investment Pty LTD (2017/25/1072/07) in respect of the Remainder of 3485 Durban North, located at 9 Beachwood Place Durban North, for a scheme amendment in terms of Section 26 (Category 1 Application) of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021).

The proposal is broadly in line with the eThekweni Municipality’s objective to promote spatial efficiency by optimising development in areas of greatest opportunity and encourages efficient use of infrastructure and facilities.

In light of the planning evaluation, it is considered that the proposal amendment to introduce a new zone into the eThekweni Municipality Land Use Scheme: Central Sub-Scheme, Section 7: Development Facilitation Table to be known as “Special Zone: Beachwood Coastal Estate”, is appropriate and meets the development principles as set out in the current planning legislation, promote efficient and sustainable economic development and use of infrastructure and is recommended for approval.

To enforce site-specific controls, a Special Zone is the only meaningful mechanism available, therefore, to ensure that the property is developed in accordance with a set of stringent and prescriptive controls, given its sensitivity and peculiarities of a special zone is necessitated.

The proposed development will intensify the use of the site and improve the value by virtue of the investment and in turn increase the rates that will accrue to the Municipality.

Having noted the foregoing, it was subsequently

COMMITTEE RECOMMENDS:

- 2.6.1 In terms of Section 26 of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) the proposed introduction of a new land use zone into the eThekweni Municipality Land Use Scheme: Central Sub-Scheme: Section 7 Development Facilitation Table, to be known as **“Special Zone: Beachwood Coastal Estate”** be approved for the following reasons:
- 2.6.1.1 Given the very prescriptive and specific development controls largely shaped by the Environmental Authorisation, there is no land use zone with in the current eThekweni Municipal Land Use Scheme: Central Sub-Scheme that can effectively accommodate the intended development.
- 2.6.1.2 The new land use zone and associated Development Controls will ensure that the property is developed in accordance with a set of stringent and prescriptive controls, given its sensitivity and peculiarities, which can only be achieved by way of a new zone.

The eThekweni Municipality Land Use Scheme: Central Sub-Scheme: Section 7 Development Facilitation Table will be amended to include the following table:

| SPECIAL ZONE: BEACHWOOD COASTAL ESTATE | | |
|--|--|--|
| 1. SCHEME INTENTION: | | |
| a) To conserve and manage natural areas of indigenous flora and fauna and wetlands, water, and the seashore for the ecosystem services that these areas provide and the biodiversity which they support. b) To provide for various residential options, short-term accommodation, and a mix of uses that permits recreation, entertainment, dining, tourism activities, and commercial activities such as a Chapel for weddings and a functions room that can be used for social gatherings, wedding receptions, displays, conventions and the like. A clinic, medical offices, and recuperation suites for elective surgical or physiological procedures will form part of a holistic, general health and welfare facility. c) Provide for a range of residential housing typologies at varying degrees of densities from low to high, in harmony with the natural attributes of the site to create a residential living area of exceptional quality and security with both Sectional Title or Freehold ownership being available. d) Develop in synergy with and complimentary to adjoining residential areas. e) Maintain unrestricted public access inclusive of public parking and designated pedestrian access to the beach. f) Maintain unrestricted vehicular access for emergency or maintenance vehicles to the beach. g) Establish a Design Review Panel to review and approve all site development plan proposals, landscaping plans, and building plans before the submission of such plans to the Municipality for consideration. h) Maximize, where applicable, the use of “green building” technologies in all facets of development. i) Introduce a comprehensive landscaping protocol utilizing only appropriate indigenous vegetation across the entire development. j) The development form of the entire Beachwood Estate will consist of 4 separate yet inter-related precincts to be developed substantially in accordance with the approved overall site development framework plan no: 19119-SK-14-1000 dated 28/01/2022 or subsequently approved versions thereof. k) All development will be approved by the Design Review Panel, Head: Development Planning, Environmental Planning and Management, and Deputy Head - Environmental Planning and Climate Protection (or their assigned) before any construction commences. l) All of the above is to occur within designated precincts as depicted on layout plan no 19119-SK-14-1000 dated 28/01/2022 or subsequently approved versions thereof. | | |
| LAND USE CONTROL – DEVELOPMENT FRAMEWORK OF ENTIRE SITE PLAN NO.:19119-SK-14-1000 | | |
| PRIMARY | SPECIAL CONSENT | PRECLUDED |
| <ul style="list-style-type: none"> • Action Sports Bar • Beach Amenity Facility • Conference Facility | <ul style="list-style-type: none"> • Garden Nursery • Government/Municipal • Special Building | <ul style="list-style-type: none"> • All uses that are not listed under primary or special consent. |

| SPECIAL ZONE: BEACHWOOD COASTAL ESTATE | |
|---|---|
| <ul style="list-style-type: none"> • Environmental Conservation Reserve Area • Creche • Dwelling House • Flat • Health & Beauty Clinic • Health Studio • Hotel • Medical Office – Limited to elective surgery and Recuperation Suites • Multiple Unit Development • Nature Based Tourism • Nature Reserve • Office – Medical • Offices • Place of Public Entertainment • Place of Public Worship • Public open space • Private Open Space • Restaurant/Fast Food Outlet • Shop • Utilities Facility • Vet clinic | <ul style="list-style-type: none"> • Zoological Garden • *Airport–limited to Helipad • Special Building • Base Telecommunications Transmission Station • Retirement centre • Zoological gardens |

ADDITIONAL CONTROLS

1. GENERAL

- a. The purpose of this zone will be to accommodate a wide range of conservation, recreational, social, entertainment, tourist, residential, and limited commercial activities, in such a way that the uses contribute towards the creation of a dynamic, harmonious, and environmentally sensitive development.
- b. In order to preserve the integrity of the environment and contribute to establishing a development that achieves the spirit and intention behind the establishment of this zone, decisions are to align with the purpose of the zone.

2. DEVELOPMENT FRAMEWORK AND LAYOUT PLAN

- a. This zone is based on an overall Development Framework Plan which may be amended from time to time (within the parameters of this zone).
- b. The Development Framework Plan provides the overall structure for the site and includes only the main framework routes, open spaces, subdivisions, and environmental and service/infrastructure-related requirements. The position of buildings on the Development Framework Plan is indicative and not prescriptive.
- c. The Development Framework Plan serves to provide the overarching structure within which individual precinct plans, based on the vision and objectives for Beachwood Coastal Estate will be prepared and submitted for consideration.
- d. Detailed site controls are to be included in a Layout Plan, on a site-by-site and/or general basis. This will include the environmental attributes and accompanying set backlines.
- e. The respective land uses indicated on the Layout Plan shall set out the respective designations and site-specific development controls.
- f. The applicable Scheme provisions in so far as general and land use definitions (except where otherwise indicated) shall apply. Specifically, in so far as height is concerned, each property will be governed by a site-specific height control as set out in the Layout Plan.
- g. Provided that the approved footprint as set out in the applicable Environmental Authorisations and associated development controls are not exceeded and further, that any other authorisations as determined by The Head: Development Planning as being required are in order, The Development Framework Plan and Layout Plan may be amended through an application for Special Consent. Public notice may be waived at the discretion of The Head: Development Planning, Environment and Management Unit.

3. MASTER PROPERTY OWNERS' ASSOCIATION (MPOA)

- a. A MPOA shall be formed in respect of the entire development area to control and manage matters of common interest to all portions of the development and co-ordinate the affairs of any Local Property Owners Association (LPOA).
- b. All owners, their guests, lessees, and any other member of the public utilizing the estate accommodation and facilities must comply with the rules and regulations of the MPOA.
- c. No Portion, Erf, or Sectional Title unit shall be developed or transferred without the consent of the MPOA, which consent may not be withheld if the new buyer agrees to become a member of the relevant Association and the existing owner has complied with all their obligations to the MPOA.

4. LOCAL PROPERTY ASSOCIATION (LPOA)

- a. A number of LPOAs shall be formed in respect of each precinct and sub-development areas to control and manage matters of common interest to all portions of the development falling within each precinct.

| | SPECIAL ZONE: BEACHWOOD COASTAL ESTATE | |
|--|--|--|
| | <p>b. Each LPOA must become and remain a member of the MPOA and ascribe to and abide by all rules and regulations of the MPOA.</p> <p>c. All owners, their guests, lessees, and any other member of the public utilising the estate accommodation and facilities must comply with the rules and regulations of the relevant LPOA.</p> <p>d. No Portion/sectional title unit shall be transferred without the consent of the relevant LPOA, which consent may not be withheld if the new buyer agrees to become a member of the relevant LPOA and the existing owner has complied with all their obligations to the LPOA.</p> <p>e. The inter-relationships of the LPOAs and the MPOA shall be established in terms of a legally binding agreement between them.</p> <p>5. DESIGN REVIEW PANEL</p> <p>a. The MPOA shall establish and appoint a Design Review Panel to manage and oversee the design and construction of the development. The Municipality shall be entitled to include at least one representative on the Design Review Panel, should it wish to, this is however not mandatory and will not adversely impact on the functions of the Design Review Panel.</p> <p>b. All building plans will be reviewed by the Design Review Panel prior to submission to the Municipality. The Municipality shall not consider any plans not evaluated by the Design Review Panel.</p> <p>c. The Design Review Panel shall in writing, provide its comments and recommendations for all building plans which must accompany any building plan submission to the Municipality.</p> <p>d. The Municipality is responsible for deciding the outcomes of all building plans.</p> <p>6. LANDSCAPING MASTER PLAN</p> <p>a. The MPOA shall prepare a Landscaping Master Plan and an overall indigenous planting protocol for the entire site subject to the approval of the Municipality in consultation with the Head: Environmental Planning and Climate Protection.</p> <p>b. The MPOA together with the LPOA shall ensure that the abovementioned Landscaping Master Planning principles and protocols are implemented and maintained in perpetuity on every erf, portion, or exclusive or common area in a sectional Scheme within this zone.</p> <p>7. HEIGHT</p> <p>a. The height of each erf is governed by a maximum permissible height in meters above the highest natural ground level prior to construction.</p> <p>b. The determination of the highest ground level prior to construction shall be determined by the MPOA or LPOA.</p> <p>c. No building shall exceed the maximum height prescribed.</p> <p>d. Any amendment to the maximum prescribed height may be undertaken by way of an application for special consent to the Municipality, provided that the MPOA, LPOA, and Design Review Panel supports such application. A full Special Consent process is required in order for any increase in height to be considered.</p> <p>e. The Municipality may authorise the erection of a building or structure to a greater height than that stipulated by Special Consent, if it considers that the proposed building or structure will be so situated in relation to any existing building or structure, topography, or established vegetation that the proposed building or structure will have an insignificant or minor impact.</p> <p>f. Any such application shall be supported by an analysis of views in the area where the building or structure is to be sited, with a graphic impression of the proposal illustrating the potential visual impact thereof.</p> <p>g. Attached to the development plan is a schedule for each property prescribing site-specific development controls that are to be adhered to. Any changes to the site-specific controls may be considered by way of an application for Special Consent provided that the MPOA, LPOA, and Design Review Panel supports such application.</p> | |

ADOPTED.

- 2.7 Approval of Business Empowerment and Information Dissemination Programme for the 2023-2024 Financial Year (20/1/7/3):
(Page 187 : Economic Development and Planning Committee - Agenda 2023-05-22)

The Business Support, Markets, Tourism and Agri-Business Unit is responsible for rolling out business empowerment workshops/road shows in various Wards and tribal areas, targeting Small, Medium and Micro Enterprises (SMMEs) within the eThekweni Municipality. These Empowerment and Information Dissemination Workshops are aimed at empowering SMMEs with business development information critical for the success of their businesses, compliance matters as well as business opportunities available to sustain their businesses.

The empowerment workshops are coordinated and executed with an extensive focus on the following fundamental elements, namely, access to information and finance,

attracting and accessing the targeted markets, implementation of the Preferential Procurement Policy Framework Act (PPPFA) and the Radical Economic Transformation Strategies, compliance with the Supply Chain Management and Tendering processes, Agri-Business sector matters, Bulk markets and related value chain, informal trading compliance procedures and permits, starting a new business venture and process, business licencing and liquor licencing processes, contractor development programme compliance, business support programme offerings, business license compliance procedure and cooperative development.

It was noted that twenty-eight (27) business empowerment workshops are proposed for various Wards and tribal areas. The programme is intended to reach all Wards, however, based on annual project plans and budget, a certain number of Wards are targeted per financial year. Also, a balance is created in terms of the selection criteria to consider Wards that have already received empowerment previously and Wards which have never been considered. Accordingly, based on the aforementioned explanation, the Wards to be considered during the 2023-24 financial year include Wards 99; 72; 06; 12; 13; 16; 76; 103; 30; 34; 92; 52; 04; 47; 96; 107; 82; 86; 05; 84; 60; 59; 31; 08; 35; 62. The final dates and venues will be confirmed in consultation with the respective Ward Councillors and Traditional Leaders.

To conduct the business empowerment workshops, an estimated budget provision in the amount of R1 132 000.00 (One Million One Hundred and Thirty-Two Thousand) has been made during the 2023-24 financial year. It should be noted that this is just provision since in other area community halls and other public facilities are used to host the workshops. The budget is then used in areas where erection of marquee is required, and then the marquee comes with other requirements such as generator and ablution facilities, amongst others. Catering is also provided for the workshop participants.

The Committee supported the business empowerment, it be acknowledged that entrepreneurship should be the key focus area given shrinking employment opportunities in the labour market.

The Executive Committee shared similar sentiments with that of the Support Committee in terms of the importance of these workshops. Thereafter, certain duplication was identified and that this be followed up so that other Wards be considered as a replacement.

The Executive Committee also spoke of different business models being undertaken in various areas of the eThekweni and that empowerment should also take that into consideration. Meanwhile, it was acknowledged that all Wards require this empowerment and that the Economic Development and Planning Committee will manage the issue of identifying and including Wards accordingly, irrespective of the list of Wards included herein, but that further decision will be based on a need by need basis.

Accordingly,

COMMITTEE RECOMMENDS:

2.7.1

That in noting the significance and contribution made by small businesses in the local economic development, authority be granted for the Head: Business Support, Tourism, Markets and Agri-Business to incur expenditure in the amount of R1 132 000.00 (One

Million One Hundred and Thirty-Two Thousand) to conduct the Business Empowerment and Information Dissemination Programme during the 2023-24 financial year thereby supporting Small Medium and Micro Enterprises and aspiring business people with business intelligence to grow their businesses and understand the necessary compliance requirements.

2.7.2 That subject to .1 above, Council notes the programme is intended to reach all Wards, however, based on annual project plans and budget, a certain number of Wards are targeted per financial year, with a balance being created though in terms of the selection criteria to consider Wards that have already received empowerment previously and Wards which have never been considered, and therefore the Wards proposed for consideration for the business empowerment during the 2023-24 financial year are 99; 96; 72; 06; 12; 13; 16; 76; 103; 30; 34; 92; 52; 04; 47; 96; 107; 82; 86; 05; 84; 60; 59; 31; 08; 35; 62, it being recorded that the Economic Development and Planning Committee leadership reserves the right to finalise the schedule of Wards to be empowered.

2.7.3 That the Head: Business Support, Tourism, Markets & Agri-Business in liaison with the respective Ward Councillors and Traditional Authorities, continue with the implementation of the programme, in accordance with the dates and venues to be agreed to at the consultation stage.

2.7.4 That the Head: Business Tourism, Markets & Agri-Business submit progress reports with regard to the implementation of the Business Empowerment Programme and Information Dissemination Programme.

Financial Implications:

Estimated budget allocation of R1 132 000.00 ; 2023/2024 financial year

| BU | ITEM.SUB | FUNDING | COSTING | PROJECT | REGION |
|-------|----------|---------|---------|-----------|--------|
| 26503 | Various | 12120 | 0000 | 38805-104 | 0010 |

FC No.: 2024/32/02

ADOPTED.

2.8 Approval of Green Bremen West to KwaMashu Project Finance Agreements (32/2/2 & 7/4/1):

(Page 210: Economic Development and Planning Committee – Supplementary Agenda 2023-05-22)

The eThekweni Municipality has a longstanding partnership with the Free Hanseatic City of Bremen in Germany formalised 30 September 2011 to undertake projects in Inanda, Ntuzuma and KwaMashu (INK) areas. The Green Bremen West to KwaMashu project is undertaken under this partnership. The aim of the Green Bremen West to KwaMashu project is to implement measures for the development and management of urban green infrastructure to support climate change adaptation and environmental, social and economic sustainability and development.

The main focus of the project is to transform and better manage the open spaces associated with the KwaMashu and Ntuzuma streams and the Piesang River floodplain between KwaMashu Town Centre, Crossroads and Bridge City. The project interventions seek to model the development of Agroecology gardens, including the use natural filtration and low-tech irrigations systems to improve the viability of food gardening alongside our urban streams; model the use of the Geographic Information

System (GIS) as a tool to facilitate improved and better integrated public space management involve multiple municipal and non-state actors; and mobilise a network of environmental education providers to improve their collective, municipality-wide impact on environmental challenges and sustainability.

The Green Bremen West to KwaMashu project is implemented through Green Corridors Non-Profit Company (NPC). Green Corridor NPS has been integral to the development and implementation of the KwaMashu Bridge City Open Spaces Development Initiative. Authority is therefore sought to enter into a further onward funding agreement with the Free Hanseatic City of Bremen (“Bremen”) to continue the project and to expand funds which have already been received from the City of Bremen in terms of a previous agreement. Further, authority is sought to also enter into an agreement with Green Corridor NPC to enable the transfer of funding in the amount of R920 730 000 in the 2022-23 financial year to continue implementing the projects reflected in the table below till 31 December 2023.

| Project | Amount |
|---|---------------|
| Project Management and Coordination | R180 000.00 |
| Open Space Management Gathering and Data | R 63 000.00 |
| Environmental Education Network Manager | R234 000.00 |
| Employing farmers to create growing beds, wetland filtration systems and groundwork for service platforms | R431 730.00 |
| Tools | R12 000.00 |

It being noted that the Green Bremen West to KwaMashu project is a catalyst in providing the requirement development in the INK areas,

COMMITTEE RECOMMENDS:

- 2.8.1 That the Executive Committee notes that all of the agreed funds from Bremen have been received in terms of the Onward Funding Agreement which terminated 31 December 2022.
- 2.8.2 That authority be granted for the City Manager to enter into a further Onward Funding Agreement with the Free Hanseatic City of Bremen, commencing on the date of the signature of the agreement and terminating 2023-12-31, without the adjustment of budget or financial implication for the Municipality.
- 2.8.3 That subject to .2 above, authority be granted for the City Manager to enter into a Memorandum of Agreement (MOA) with Green Corridors NPC and, in accordance with Section 67 of the Local Government: Municipal Finance Act No. 56 of 2003, as well as the terms and conditions of the MOA, the approval the transfer to Green Corridors NPC in the amount of R920 730.00 (Nine Hundred and Twenty Thousand Seven Hundred and Thirty Rand) to complete the implementation of the Green West of Bremen to Kwamashu Township Project terminating 2023-12-31.
- 2.8.4 That the Head: Economic Development report back to the Economic Development and Planning Committee upon the conclusion of the Green Bremen West to Kwamashu Township Project, about the benefits derived by the Municipality and local communities.

| F/Y | BU | Item | Funding | Costing | Project | Region | Excl. Tax |
|-----------|-------|-------|---------|---------|---------|--------|-------------|
| 2022/2023 | 26102 | 25195 | 79281 | 0000 | 42910 | 0010 | R920 730.00 |

FC No.: 2023/18/59

ADOPTED.

2.9

Request for Authority to Receive Funding and to Enter into Strategic Partnership with Food and Beverages Manufacturing Sector Education and Training Authority to Implement NVC Business Management Skills Project (20/1/7/5):

(Page 216 : Economic Development and Planning Committee – Supplementary Agenda 2023-05-22)

Authority is sought for the Agribusiness Department to receive funding and enter into strategic partnership agreement with Food and Beverages Manufacturing Sector Education and Training Authority (FoodBev SETA) and implement New Venture Creation (NVC) Learnership in Business Management Skills during the 2023/2024 financial year.

The Food and Beverages Manufacturing Sector Education and Training Authority’s (FoodBev SETA) function is to promote, facilitate and incentivise skills development in the Food Beverage Manufacturing Sector. FoodBev SETA is one of 21 Sector Education and Training Authorities (SETAs) across the economy mandated to put the National Skills Development Strategy (NSDS) into practise.

The eThekweni Municipality strategically positioned the Agri-business Department to facilitate and implement Agri-Business Development programmes, target and support Agri-Business investment, provide research, policy and innovation services. The partnership funding will enable Agri-Business Department to implement New Venture Creation Learnership in Business Management Skills that seeks to improve farmers’ business management skills that will ensure a resilient farm enterprise development, promote reliable access to markets, bring innovative business knowledge and methods that are sustainable, upskilling and empowerment of farmers, develop management competencies required in the workplace and promote Agricultural Ventures to Women and Youth.

The learnership will focus in the North, South and West region of eThekweni, taking into consideration the location of Agri-Hubs where learners/trainees will be placed for practical training. The location and number of candidates that will be trained is stipulated in the table below:

| REGION | NUMBER OF CANDIDATES |
|-----------------|----------------------|
| eThekweni North | 40 |
| eThekweni South | 30 |
| eThekweni West | 30 |
| TOTAL | 100 |

Having noted that this is in line with Integrated Development Plan 2 objective which is “Economic Growth and Job Creation,

COMMITTEE RECOMMENDS:

That authority be granted for the City Manager to, on behalf of the eThekweni Municipality, enter into a 12-month partnership with Food and Beverages Manufacturing Sector Education and Training Authority (FoodBev SETA) to receive funding in the amount of R6 235 000.00 (Six Million Two Hundred and Thirty Five Thousand Rand) and facilitates the implementation of New Venture Creation Learnership in Business Management Skills that seeks to improve farmers’ business management skills that will ensure a resilient farm enterprise development, promote reliable access to markets, bring innovative business knowledge and methods that are sustainable, upskilling and empowerment of farmers, develop management competencies required in the workplace and promote Agricultural Ventures to Women and Youth.

Financial Implications:

Learning Programme: New Venture Creation NQF Level 4
SAQA ID: 66249
No. of Credits:149

| Number of Learners | Employment status | Training Duration | Stipend per learner | Total training cost | Total budget |
|--------------------|-------------------|-------------------|-----------------------|---------------------|-------------------|
| 100 | Unemployed | 12 months | R36 000 | R58 000 | R5 800 000 |
| | | | Management fee @ 7.5% | | R 435 000 |
| | TOTAL | | | | R6 235 000 |

ADOPTED.

2.10

Agri Processing Investment Program and the Partnership with Forum for Agricultural Research in Africa and the African Union (20/1/7/5):

(Page L71: Economic Development and Planning Committee - Agenda 2023-05-22)

Authority is sought to invest in an Agri-processing investment promotion partnership agreement between Invest Durban and the Forum for Agricultural Research in Africa (FARA), the African Union’s (AU’s) technical advisor for the investments into the Common Area Agri Parks (CAAPs). In addition, authority is sought for the approval to exhibit in the Conference and Exhibition during the 8th Africa Agribusiness and Science Week (AASW) and FARA General Assembly Program, from the 5th 8th of June 2023.

The Forum for Agricultural Research in Africa, which is the technical arm of the African Union responsible for co-ordinating and advocating Agricultural Research for Development (AR4D), will be hosting their annual Africa Agribusiness and Science Week and General Assembly for the very first time in South Africa to be held from the 5-8 June 2023 at the Durban International Convention Centre. The event will be all encompassing and take the format of an Agritech exhibition, conference with technical workshop sessions, investment forums, in-site location visits of commercial manufacturing and research facilities, plus active farms. The programme is attracting delegates, partners and members from forty (40) countries in Africa including speakers from Europe and the United States of America.

The aim is to attract forty (40) exhibitors and eight hundred (800) conference delegates, including buyers. The Africa Agribusiness and Science Week program will focus on five (5) broad thematic areas namely, building and sustaining and resilient food systems, creating an Agribusiness enabling environment for impact, knowledge

management and the Digitalisation of agriculture via Youth and Female Entrepreneurship, developing Africa’s Climate Resilience to create Sustainable and Nutritious food systems, and harnessing science and business collaboration to book intra and Intercontinental Africa trade.

The DA and the IFP abstained on this matter, and with the other Parties present being in support,

COMMITTEE RECOMMENDS:

- 2.10.1 That the Units participating in the Common Area Agri Parks Investment Program via an Exhibition Stand on 2023-06-05 Africa Agribusiness and Science Week at the Durban International Convention Centre, be approved.
- 2.10.2 That and investment of USD 40k in the Agri Processing Investment Promotion Partnership Program of Forum for Agricultural Research in Africa and the African Union via a Memorandum of Agreement in terms of Section 67 of the Local Government Municipal Finance Management Act to govern the investment Partnership, be approved.
- 2.10.3 That the City Manager be authorised to conclude and sign a Memorandum of Agreement in terms of Section 67 of the Local Government Municipal Finance Management Act to govern the investment Partnership.

Financial Implications:

| | | | |
|------------------------------------|---------------------------------------|-------------|--------------------|
| Corporate and Municipal Activities | 91000.16315.12120.0000 .MRC01.0010 | R750 000.00 | 2023/2024 FY |
| Corporate and Municipal Activities | 91000.16315.12120.0000 .MRC01.0010 | R200 000.00 | 2022/2023 |
| TOTAL | | | R950 000.00 |

At this stage of the proceedings, the DA requested for 5 minutes caucus which was granted accordingly by the Speaker. Meanwhile, the ANC also took the opportunity to caucus as the meeting was briefly adjourning.

At the resumption of meeting, the DA confirmed that they have firmed up their position with regard to item 2.10. On the other hand, the DA noted with concern the opportunistic caucuses held alongside theirs but which ended up exceeding time limit requested by the DA.

The ANC then extended apology for some of the Members returning late from the opportunity taken during the DA Caucus.

Thereafter, the IFP Councillor Gwala drew the attention to item 2.9 where he was of the view that the figures reflected on the table under financial implication were not totaling up. He sought clarity on how the total figure of R 6 235 000.00 was arrived at. The Speaker then referred to the Rules of Order By-Law and ruled that the issue has already been dealt with. However, he urged that relevant officials responsible for the item should take note of the comment by Councillor Gwala and provide clarity accordingly

The item was thereafter, **ADOPTED.**

3. REPORT OF THE HUMAN SETTLEMENTS AND INFRASTRUCTURE
COMMITTEE: MEETING HELD: 2023-05-26

(Page R25)

3.1 Request for Authority to Host the 26th Annual Southern African Revenue Protection
Association Convention on 03-04 August 2023 at the Inkosi Albert Luthuli
International Convention Centre (13/2/1/1/1):

(Page 92: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Authority is sought for the eThekweni Municipality's Electricity Unit to incur expenditure in the amount of R405 553.50 (Four Hundred and Five Thousand Five Hundred and Fifty-Three Rand Fifty Cent), to host the 2023 Annual Convention of the Southern African Revenue Protection Association (SARPA) from 03 to 04 August 2023 at Inkosi Albert Luthuli International Convention. SARPA is an association of Municipal electricity utilities; National Departments; parastatals; commercial; academic; other Municipal associations and other organisations having a direct interest in the electricity supply and distribution industry in Southern Africa. The intention is to promote the following:

- Effective revenue protection; debt collection; and combatting of infrastructure theft.
- Quality of service and management excellence amongst its members in the field of electricity supply and distribution.
- Communication between its members.
- Communication between members and the technical; economic; and political environment, in order to influence that environment.

SARPA stakeholders include the following, amongst others:

- (i) Electrical Utilities (AMEU);
- (ii) South African Local Government Association (SALGA);
- (iii) Department of Energy (DoE);
- (iv) Department of Labour (DoL);
- (v) Department of Co-operative Governance and Traditional Affairs (CoGTA);
- (vi) The National Energy Regulator of South Africa (NERSA);
- (vii) Municipal Infrastructure Support Agency (MISA); National Treasury; CIGFARO; IMFO; IMESA; NFMCCC; and Eskom.

MOTIVATION

The SARPA objectives are as follows:

- (i) To promote the interest of electricity utilities and to collaborate with other stakeholders in the pursuance thereof;
- (ii) To bring together Municipal Councils or Board representatives, Electrical Engineers, Technical and Revenue Managers, all persons interested in the advancement and development of electricity utilities, and to promote wider contact and the exchange of views;
- (iii) To arrange and hold Conventions and Technical Conventions for the reading of papers and the discussion of subjects pertaining to electricity utilities and to make recommendations on matters requiring joint action to establish branches consisting of electricity utilities with joint interests;

- (iv) To affiliate with, or seek membership of such organisations as may be decided upon by the Executive Council;
- (v) To foster the establishment of organisations outside the boundaries of South Africa, having objectives similar to those of the Association, and to assist them technically and financially in such fields as may be deemed desirable by the Executive Council;
- (vi) To organise or participate in international meetings of organisations having objectives similar to those of the association, and in general to foster the exchange of information in the field of electricity supply;
- (vii) To actively promote training in the utilities environment;
- (viii) To promote quality service and management excellence amongst members so that their customers receive value for money;
- (ix) To provide an advisory service for its members, customers and associates.
- (x) To influence policy decisions at a national level.

The organising and arranging of the SARPA Annual Convention, including funding, usually involves co-ordination between SARPA's National Secretariat, the host Municipality, affiliates committees and certain sponsor companies. In hosting the 2023 SARPA Convention, the eThekweni Municipality will be required to provide the following support:

- (i) Volunteer staff from the Electricity Unit to assist with Joint Operating Centre submissions together with the SARPA Secretariat.
- (ii) The Electricity Unit to sponsor the hiring of the Inkosi Albert Luthuli International Convention Centre for 3 and 4 August 2023.
- (iii) Employees from the Electricity Unit to provide limited event organising and administrative support from 02 to 04 August 2023.
- (iv) The City's Communication Department and the Office of the Mayor will also be required to provide support for the Mayoral Cocktail Function.
- (v) Opening Address at the Convention by His Worship the Mayor or his nominated representative.
- (vi) Hosting the Mayoral Cocktail Function.

In terms of the Convention Programme, His Worship the Mayor or his representative is required to officiate the opening of the Convention on 03 August 2023. Traditionally, keynote address by the Ministers of Energy or CoGTA and/or the CEO of NERSA is included on the first and second day of the Programme.

Benefits of hosting the SARPA Convention by eThekweni Municipality

The 2023 SARPA Convention is an international convention that is attended by approximately 150 delegates. These delegates include:

- Councillors from various Municipalities around South Africa;
- Members and guests from Southern Africa and abroad;
- Municipal and Consulting Engineers from South Africa, East and Southern Africa and other international countries; and
- Representatives from the manufacturing industry, NERSA; DoE; DoL; Department of Local Government and Housing; SALGA; Eskom; Local Government Sector Education and Training Authority; South African Bureau of Standards (SABS); South African Institute of Electrical Engineering (SAIEE); Council for Scientific and Industrial Research (CSIR); Engineering Council of South Africa (ECSA); EE Publishers; and members of the Media.

The anticipated overall benefits of hosting the 2023 Convention are as follows:

- (i) Hosting of the Convention promotes Durban as an international tourist destination.
- (ii) It creates the opportunity for His Worship, the Mayor of eThekweni to welcome the delegates and market eThekweni Municipality and to share with the delegates and members of the Media the vision of the Municipality.
- (iii) It creates a platform for the relevant Cabinet Ministers to address the audience as keynote speakers and to visit eThekweni Municipality.
- (iv) The Convention is designed to strengthen adherence to good governance principles and strategic objectives of all delegates including Councillors, Engineers, manufacturers, municipal officials, students and all stakeholders in the electricity and energy sector.
- (v) As part of the Convention proceedings, His Worship the Mayor is given an opportunity to host the delegates at the Mayoral Cocktail Function organized by SARPA.
- (vi) The Convention provides the opportunity for wide interaction between stakeholders in the electricity and energy industry.
- (vii) It provides an opportunity for exhibitors to obtain exhibition space in order to showcase their products and services and thereby expand their market share.
- (viii) There is an opportunity to share experiences and learn about the macro socio-political drivers in the industry.
- (ix) Intellectual sharing between peers is stimulated.
- (x) The SARPA event may be used as a platform to profile eThekweni Municipality to the industry thereby boosting the local economy and boost tourism.
- (xi) The Convention provides the opportunity to track and debate industry trends and issues.
- (xii) Indirect financial spin off to the Municipality as a result of hosting approximately 150 delegates in the Durban International Convention Centre. Accommodation and transport services for at least two days will be required. Other participants in the hospitality industry such as restaurants and food outlets will also be able to capitalise on the event. Many delegates bring family members and extend their stay which will have a potential to add more visitors to eThekweni Municipality.
- (xiii) Provides opportunity for the City's Communication Department to advertise internally and externally.
- (xiv) EE Publishers will publish SARPA proceedings; AMEU newsletters to be issued; and special EE publications at national level. This will include acknowledgement by SARPA of the contribution made by the eThekweni Municipality.

The Committee supported the hosting of this Convention and requested the Head: Electricity to provide update report to the Human Settlements and Infrastructure Committee.

With the Committee being in agreement,

COMMITTEE RECOMMENDS:

- 3.1.1 That, taking into account benefits to be derived, Council grants authority for the eThekweni Municipality's Electricity Unit to host the 2023 Annual Convention of the Southern African Revenue Protection Association (SARPA) from 03 to 04 August 2023 at the Inkosi Albert Luthuli International Convention Centre.

- 3.1.2 Subject to the approval of .1 above, authority be granted for the Head: Electricity to incur expenditure in the amount of R405 553.50 (Four Hundred and Five Thousand Five Hundred and Fifty-Three Rand Fifty Cent) which amount serves as the primary costs and co-payment in the SARPA Annual Convention.
- 3.1.3 That it be noted that SARPA will fund the secondary costs of the Convention in the amount of R180 000.00 (One Hundred and Eighty Thousand Rand).
- 3.1.4 That it be noted that His Worship the Mayor and/or his representative is to provide an opening address on Day 1 of the Convention.
- 3.1.5 That His Worship the Mayor and/or his representative hosts the Mayoral Cocktail Function in the exhibition area at the end of Day 1.
- 3.1.6 That permission be granted for employees to assist in organizing the event and also attend to related administration matters.

Financial Implications:

eThekweni Municipality: R405 553.50

SARPA: R180 000.00

The tables below reflect the primary and secondary costs of the SARPA Convention:

| Description-Primary Costs | SARPA ® | eThekweni Electricity ® | Total® |
|--|-----------------|--------------------------------|--------------------|
| ICC-Venue hire cost inclusive of the Gala Dinner and catering, plus estimated AV costs | 0 | R 405 553.50 | R405 553.50 |
| Sub-total cost to eThekweni Electricity | 0 | R405 553.50 | R405 553.50 |
| Description-Secondary Costs | SARPA ® | eThekweni Electricity ® | Total ® |
| Awards and Prizes | R20 000 | 0 | R20 000 |
| Delegate document bags, marketing & branding collateral | R30 000 | 0 | R30 000 |
| Entertainment for Gala Dinner | R50 000 | 0 | R50 000 |
| Spouses Programme | R80 000 | 0 | R80 000 |
| Sub-total cost to SARPA | R180 000 | 0 | R180 000 |
| Total Cost | R180 000 | R405 553.50 | R585 553.50 |
| | 31% | 69% | 100% |

Vote No: 37101.19925.11100.0000.64100.0010

FC No.: 79/3001

ADOPTED.

- 3.2 Proposed Road Closure in the Portion of the Remainder of Erf 1 Durban (21/8/3):
(Page 152: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Authority is sought to permanently close the road in Portion of the Remainder of Erf 1 Durban in an approximate extent of 205,454708 square meters, as depicted on Hand Plan No.: SJ 4724/4. The proposed road closure, if approved, will be undertaken in accordance with the requirements in terms of Section 211 of the Local Authorities Ordinance No. 25 of 1974, read together with Section 28 (2) (e) of the

eThekweni Municipality: Planning and Land Use Management By-law 2016, as amended. The road area is designated as an existing street. The closure of the road on the Property, is required to enable the development and facilitation of a social housing development scheme, which is being administered by the eThekweni Municipality's Human Settlements Unit.

The Human Settlements Unit intends developing a Social Housing Development Scheme consisting of six hundred (600) units over Erf 3405, Erf 3406 Durban and the Property in approximate total extent of 2265 square meters, as depicted on Hand Plan No.: SJ 4724/4, marked as Annexure A of the report by the Head: Real Estate.

The three properties described as Erf 3405, Erf 3406 Durban and the Property in approximate total extent of 2265 square metres are strategically located within close proximity to the Durban beachfront, the Durban station, and the Durban central business district respectively. Utilization of these properties for social housing development provides an invaluable opportunity to redress the imbalance of the past and achieve transformation in relation to residential areas. Furthermore, this will provide much needed residential opportunity for low and moderate-income households to have access to housing opportunities and socio-economic resources within the Inner City of Durban. For the social housing development to take place, the road over the Property needs to be closed.

It is necessary for all road closures and public open space areas to be considered and approved in terms of Sections 211 and 212 respectively, of the Local Authorities Ordinance No. 25 of 1974 and Section 28 (2) (e) of the eThekweni Municipality: Planning and Land Use Management By-law 2016, as amended. The road over the Property is currently designated as an existing street and therefore it is necessary to approve closure.

With the Committee being in agreement,

COMMITTEE RECOMMENDS:

- 3.2.1 That in terms of Section 211 of the Local Authorities Ordinance 25 of 1974, read together with Section 28(2) of the eThekweni Municipality Planning and Land Use Management By-law 2016 as amended, the closure of the road over the property, described as Proposed Portion of the Remainder of ERF 1 Durban in an approximate extent 205 454708 square meters, also depicted on Hand Plan No.: SJ 4724/4, with the road extent calculation being depicted on the geographical information system, be approved.
- 3.2.2 That upon obtaining approval by the Municipal Council, the road closure be advertised via the application process of the eThekweni Municipality: Planning and Land Use Management By-Law 2016, as amended.
- 3.2.3 That in the event of objections being lodged regarding the proposed closure of the road over the property described as Proposed Portion of the Remainder of Erf 1 Durban, in approximate extent 205 454 708 square meters, as depicted on Hand Plan SJ4724/4/, with the road extent calculation being also depicted on the geographical information system, with the process detailed in the eThekweni Municipality: Planning and Land Use Management BY Law 2016, as amended, to be followed to attend to these objections.

3.2.4 That all costs involved in this transaction be for the account of the eThekweni Municipality's Human Settlements Unit.

3.2.5 That authority be granted for the Head: Real Estate to sign all documents necessary to give effect to the above-mentioned recommendations.

ADOPTED.

3.3 Proposed Alienation of Erf 570 Ntuzuma – by Public Tender (17/2/1/2/30):
(Page 174: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

Authority is sought to approve intention to alienate the Municipal-owned Property, Erf 570, Ntuzuma-A, Registration Division FT, Province of KwaZulu-Natal in extent 2965m², as depicted on SJ 4747/9, in terms of Regulations 5(1) (b)), 7, and 12 of the Municipal Asset Transfer Regulations (MATR), 2008, read together with Section 14(2) (a) and (b) of the Local Government: Municipal Finance Management Act, No. 56 of 2003, and to alienate the non-exempted capital asset for less than fair market value in terms of Regulation 13 (2) of the MATR.

With the DA abstaining on this matter, and the other Political Parties present being in support,

COMMITTEE RECOMMENDS:

3.3.1 That the Municipal Council declares that in terms of Regulation 5 (1)(b),7, and 12 of the Municipal Asset Transfer Regulations 2008 read together with Section 14 (2)(a) and (b) of the Local Government: Municipal Finance Management Act, No. 56 of 2003:

3.3.1.1 The Proposed Property described as Erf 570 Ntuzuma A in extent of 2965m² as depicted on Plan SJ4747/9 is not needed to provide the minimum level of Municipal services and is declared surplus to the requirements of the Municipality.

3.3.1.2 The market value of the property is currently assessed at the value of R780 000.00 (Seven Hundred and Eighty Thousand Rand), excluding VAT.

3.3.2 That the Municipal Council approves proposed alienation for the purpose of constructing the community facilities to be discounted by 90% of the fair market value, having duly considered the principles as set out in Regulation 13(2) of the MATR, it be noted that the discounted value is determined to be R78 000.00 (Seventy-Eight Thousand Rand).

3.3.2.1 A reversionary clause shall be included in the title deed of the property stating that the property can only be utilized for community purposes and for ancillary purposes thereto and no other purpose whatsoever.

3.3.3 That Erf 570 Ntuzuma-A be sold by public tender at an upset price of R78 000.00 (Seventy-Eight Thousand Rand) and this price to attract payment of VAT.

3.3.4 That property is presently zoned as community facility in terms of the Town Planning Scheme and the proposed use on the property remains in accordance with its zoning.

- 3.3.5 That subject to the adoption of .1 to .4 above, authority be granted to the Head: Real Estate to sign all the documentation necessary to give effect to this transaction in terms of the eThekweni Municipality Supply Chain Management Policy and any other applicable legislation and that it shall be subject to such further conditions as the Head: Real Estate considers necessary to protect the Municipality's interest.

As some members were not in support of the recommendations, the matter was put to the vote. With 177 Councillors present, 134 Councillors (ANC - 81, EFF - 17; IFP -15; ACTIONSA- 03; ABC - 01; ACC - 02, ACDP - 01;DLC - 01; ADEC-01; APF - 01; AIC- 02; ATM -01; ALJAMAH - 01; JEP -00; PRM-01;KZNI - 01, MF - 01, MOSA - 01;NFP -01; PFP - 00; TA- 01; UIM - 01 and VF Plus - 00)) voted in favour of the recommendations, voted against 00, and 43 Councillors (DA) abstained on the matter.

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

- 3.4 Proposed Granting of Rights to Use, Control or Manage a Lease of Erf 836 Dunns Grant Being a Consolidation of Portions 17,18 and 14 (All of Erf 16) in Extent 5928m as Depicted on Plan SJ4786/9 by Way of a Long-Term Lease and to Approve a Road Closure Over Erf 836 Dunns Grant (21/7/2 & 17/2/1/2/5:
(Page 192: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

The Committee received the report to apprise the Municipal Council on the outcome of the public participation process conducted for the proposed granting of long-term rights to use, control and manage the proposed property described as Erf 836 Dunns Grant, in extent of 5928m² as depicted on Plan SJ 4786/9 Erf 836 Dunns Grant. The outcome thereof indicating no objections received in this regard.

Accordingly,

COMMITTEE RECOMMENDS:

- 3.4.1 That the Municipal Council declares in terms 14 of the Local Government: Municipal Finance Management Act, 56 of 2003 (MFMA) that:
- 3.4.1.1 The proposed property described as Erf Dunns Grant in extent 5928m² as depicted on Plan No.: SJ 4786/9 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 the period that the proposed granting of rights to use, control or manage the said property is proposed.
- 3.4.1.2 The Municipality has considered the fair market value of the asset; economic; and community value to be received in exchange for the asset. The current market value of the property is R20 748 000.00 (Twenty Million Seven Hundred and Forty Thousand Rand) at an assessed market rental of R1 528 560.00 (One Million Five Hundred and Twenty-Eight Thousand Five Hundred and Sixty Rand) per annum and R127 380.00 (One Hundred and Twenty-Seven Thousand Three Hundred and Eighty Rand) per month, excluding VAT, has been considered.
- 3.4.2 That Council approves in principle that a right be granted to use, control or manage the capital asset described in extent 5928m² as depicted on Plan No. SJ4786/9 in terms of Regulation 34(1)(b), read with Regulation 36 and 41(1) of the Municipal Asset Transfer Regulations 2008, that:

- 3.4.2.1 A long-term right is proposed to be granted in respect of proposed property described as Erf 836 Dunns Grant;
- 3.4.2.2 The rental be assessed on the open market value;
- 3.4.2.3 All conditions received from the Municipality's service Delivery Units form part of the lease agreement to be concluded between the Municipality and successful tenderer.
- 3.4.2.4 The proposed property described as Erf 836 Dunns Grant in extent 5928m² as depicted on Plan SJN4786/9 by way of public tender, in accordance with the eThekweni Municipality: Supply Chain Management Policy at a base rental of R1 528 560.00 per annum (R127 380.00 per month) excluding VAT, escalating by 7% per annum and reviewable every 5 (five) years for a period of 45 years.
- 3.4.2.5 All costs incidental to the transaction shall be borne by the lessee, and all the developmental plans must be submitted to the local authority for approval prior to any construction.
- 3.4.2.6 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 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 provided that the capital is above R30 000 000.00 (Thirty Million Rand).
- 3.4.2.7 Should the developer not complete the development within a three- year period, 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.
- 3.4.3 That subject to the adoption of .1 to .2.7 above and compliance with the eThekweni Municipality: Supply Chain Management policy, authority be granted to the Head: Real Estate to sign all documents to conclude the required lease agreement.
- 3.4.4 That in terms of Section 211 of Ordinance No 25 of 1974, read together with Section 28(2)(e) of the eThekweni Municipality: Planning and Land Use Management By-Law 2016, as amended, the closure of the existing road area over Erf 836 Dunns Grant, as depicted on SJ Plan 4786/9, be approved.
- 3.4.5 That the proposed road closure, be advertised via the Land Use Management application process, read together with Section 28(2)(1) of the eThekweni Municipality Planning and Land Use Management By-Law 2016 as amended.
- 3.4.6 That in the event of objection being lodged regarding the proposed closure of Erf 836 Dunns Grant as depicted on SJ 4786/9, when it is advertised, the process detailed in the eThekweni Municipality: Planning and Land Use Management By law 2016, as amended, be followed to attend to these objections.

ADOPTED.

- 3.5 Proposed Long-Term Lease on Proposed Erf (A) and Proposed Lease on Proposed Erf (A), Erven 564,565 and 566 All of Folweni B, Situated at 24 Ndabezitha Road for General Business Purposes, as Depicted on SJ Plan No 4758/7 (17/2/1/2/5):
(Page 235: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

COMMITTEE RECOMMENDS:

- 3.5.1 That in terms of Section 211 of ordinance 25 of 1974, the closure of a road portion described as proposed Erf (A) which traverses between proposed Erf (A), Erven 564, 565 and 566 all under Folweni B, as per Hand Plan No. SJ 4768/7, be approved, and upon receiving approval by the Municipal Council, the proposed closure be advertised via the Land Use Management application process, read together with Section 28 (2)(1) of the eThekweni Municipality and Land Use Management By-laws 2016.
- 3.5.2 That Council approves, in principle, that the right be granted to use, control or manage the Capital Asset described as proposed Erf (A) and proposed lease on proposed Erf (A), Erven 564,565 and 566 all of eFolweni B, province of KwaZulu-Natal of Regulation 34(1)(b) read with Regulation 36 and 41 of the Municipal Asset Transfer Regulation 2008 (MATR) that:
- 3.5.3.1 The properties are not required to provide the minimum level of Municipal services for a period of 30 years.
- 3.5.3.2 The proposed lease is for a period of 30 years.
- 3.5.3.3 That the current market rental value of the properties is assessed at a value of R8500.00 per month excluding VAT and to reviewed time to time.
- 3.5.3.4 That the properties be leased in accordance with the provision of supply Chain Management Policy and the Preferential Procurement Policy framework which supports Radical Economic Transformation.
- 3.5.4 That all costs incidental to the transaction shall be at the cost of the lessee to whom the right to use, control or mangle the capital asset is to be granted.
- 3.5.5 That all developmental plans must be submitted to the local authority for approval prior to any construction.
- 3.5.6 That subject to the adoption of .1 to .5 above, and approval by the Bid Adjudication Committee, authority be granted for the Head: Real Estate to sign all the document 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.

ADOPTED.

3.6

Request to Amend “Start” and “End” Dates of the Council-Approved Memorandum of Agreement to be entered into between the eThekweni Municipality and the University of KwaZulu-Natal to Address Water and Sanitation Service Delivery and Operational Challenges (WS2023/067) (23/1/9):

(Page 253: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

The Committee received a report requesting amendment to be affected on the Council-approved Memorandum of Agreement (MOA), to be entered into between the eThekweni Municipality and the University of KwaZulu-Natal, to address Water and Sanitation Service Delivery and Operational Challenges.

The amendment refers to changing dates given the delays as result of the administrative processes associated with the (MOA) and thus a loss of seven (07) months, in terms of the MOA duration. Acting on the advice by the Legal and Compliance Unit, it is kindly requested to change MOA duration as follows:

| Original Date | New Date |
|------------------------------|---------------------------|
| Commencing 01 January 2022 | Commencing 01 August 2022 |
| Terminating 31 December 2024 | 30 June 2025 |

As a way of background, the Municipal Council at its meeting of 29 June 2021, adopted the following resolution:

That authority be granted for the Head: Water and Sanitation to facilitate the process of conducting research to address water and sanitation service delivery and operational challenges with a view to developing and attracting students from previously disadvantaged backgrounds to the sector and expanding innovation to solve current and future water and sanitation challenges within the eThekweni Municipality, which research process will last for a three (3) year period with effect from 2022-01-01 to 2024-12-31, and to be conducted at a total cost of R8 849 500.00 (Eight Million Eight Hundred and Forty Nine Thousand Five Hundred Rand), excluding VAT, and to be funded from savings identified within the Unit. As contained in the Annexure A of the report by the Head: Water and Sanitation dated 2023-04-17.

A letter of award (signed 22 July 2022) was issued to the UKZN in terms of Section 110(2) of the Municipal Finance Management Act (WS-2021/213). The drafting of the MOA between the eThekweni Municipality and the UKZN has been driven by the Water and Sanitation Unit with support from the Legal and Compliance Unit. The MOA is in its final draft and is pending sign off by the City Manager upon vetted by the Legal and Compliance Unit.

It was advised that based on the signature of the Letter of Award, the Legal Advisor assigned to drawing up of this MOA has advised that the contract period has been deemed to start on 01 August 2022. Therefore, if the previously Council adopted timeframe is applied to the MOA, the project will effectively lose 7 months as it will be deemed to have been started 01 August 2022 and terminating 31 December 2024 (29 months). Therefore, to maintain the original period of 3 years adopted by Council, and to be within the appropriate Municipal financial years that the project has been budgeted for, it is requested that timeframe of the project dates be amended.

The attention of the Committee was drawn to the fact that the amendment requested does not have financial implications. The amount of R8 849 500.00 (Eight Million Eight Hundred and Forty-Nine Thousand Five Hundred Rand), previously adopted by

Council is still valid as per the MOA validity date of 01 August 2022 to 30 June 2025.

Referring to overall water challenges, the Committee recommended the convening of the workshop to unpack all issues relating to water and sanitation and that the National Department of Water and Sanitation.

With the Committee being in agreement,

COMMITTEE RECOMMENDS:

- 3.6.1 That, in view of the Council-approved 3-year Memorandum of Agreement (MOA) to be entered into between the eThekweni Municipality and the University of KwaZulu-Natal, effective 01 January 2022 to 30 December 2024, still at the finalisation stage by the Legal and Compliance Unit, and to avoid loss of seven (07) months of the MOA duration period, Council approves amendment of the MOA dates for the effective dates to be now 01 August 2022 to 30 June 2025.
- 3.6.2 That Council notes the change referred to above does not attract financial implications, therefore, the amount of R8 849 500.00 (Eight Million Eight Hundred and Forty-Nine Thousand Five Hundred Rand), previously approved by the Council remains unchanged for this 3-year MOA.

ADOPTED.

- 3.7 Proposed Granting of Rights to Use, Control or Manage a Municipal Asset Through a Lease on Site Sa 824 Over Remainder of Erf 10390 Durban, Located at 85 Anton Lembede Street as Depicted on Plan SJ725/1 (17/2/12/5):
(Page 695: Human Settlements and Infrastructure Committee - Agenda 2023-05-26)

With Democratic Alliance abstaining on this matter, and other Parties present being in support,

COMMITTEE RECOMMENDS:

- 3.7.1 That the Council Declares in terms of Section 14 of the Local Government: Municipal Finance Management Act, No. 56 read together with Regulation 36(a) of the Municipal Asset Transfer Regulations that:
- 3.7.1.1 The proposed property described as Site 824 over remainder of Erf 10390 is not required to provide the minimum level of basic services and is surplus to municipal requirements for the envisaged period that the proposed granting of rights to use, control or manage the said property.
- 3.7.1.2 The current market value of proposed Site SA 824 over remainder of Erf 10390 of as depicted on SJ4725/1 in an extent of 1154 square metres is R8 000 000.00 (Eight Million Rand) at an assessed market rental of R640 000.00) (Six Hundred and Forty Thousand Rand) per annum and R53 333.00 (Fifty-Three Thousand and Thirty-Three Rand) per month has been considered and exclusive of VAT.
- 3.7.1.3 The Council approves that a right be granted to use, control or manage the capital asset described as proposed site 824 over remainder of 10390 Durban in an approximate extent of 1154 square metres as depicted on SJ 4725/1 in terms of regulation 34(1)(b)

read to together with regulation 36 and 41 of the municipal asset transfer regulation 2008. It being recorded that after the lease period has lapsed, control of the property will revert to the Municipality.

- 3.7.1.4 A thirty 30-year lease be granted in respect of the capital asset.
- 3.7.1.5 All conditions received from the Municipality service delivery units detailed in will form part of the lease agreement to be included between the Municipality and the successful lessee.
- 3.7.1.6 That the property described as proposed site A 825 over remainder of Erf 10390 over remainder Durban in an approximate extent of 1154 square meters as depicted on SJ 4725/1 be leased in accordance with the supply chain management policy, at a base rental of R53 333.00 (Fifty-Three Thousand Three Hundred and Thirty-Three Rand) per month, exclusive of VAT escalating by 7% per annum and reviewable every five years for a period of 30 years.
- 3.7.1.7 The rental may be suspended for the refurbishment/development period stipulated on the prospective lessees 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 million. Should the developer not complete the development within a 3-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.
- 3.7.2 That the successful lessee sub-lets a portion of the building (approximately 1500-2000m² / 2 floors) to the Municipality's Business Support Unit. This requirement will be communicated as a condition throughout the applicable process and will be carried forward to the lease agreement.
- 3.7.3 That all cost incidental to the transaction shall be borne by the prospective lessee and all development plans are to be submitted for approval to any construction taking place.
- 3.7.4 That subject to the adoption of .1 and .3 above the Head: Real Estate be granted authority to give effect to the above-mentioned recommendations.

As some members were not in support of the recommendations, the matter was put to the vote. With 176 Councillors present, 133 Councillors (ANC - 81, EFF – 17; IFP -15; ACTION SA-02, ABC – 01; ACC - 02, ACDP – 02;DLC – 01; ADEC-01; APF – 01; AIC- 02; ATM -01; ALJAMAH – 01; JEP -00; KZNI - 01, MF - 01, MOSA – 01;NFP -01; PFP – 00; TA- 01; UIM – 01 and VF Plus – 01) voted in favour of the recommendations, voted against 00, and 43 Councillors (DA-) abstained on the matter.

The above recommendations were, by the majority vote, ADOPTED.

4. **DIRECT EXCO REPORTS**

4.1 **REVIEW OF THE AUDIT COMMITTEE CHARTER AND NOTING OF THE INTERNAL AUDIT UNIT CHARTER 2023/2024**

(Page 1)

As per the statutory requirements, the existing Audit Committee Charter is reviewed on an annual basis. The Charter serves as the Terms of Reference of the Committee and thus outlines the role of the Committee in pursuit of its role as informed by Section 166 of the Local Government: Municipal Finance Management Act No. 56 of 2003. The Internal Audit Unit Charter is submitted for noting purposes, as this serves as internal regulatory framework in terms of outlining roles and responsibilities by the parties involved in the internal audit processes.

It should be noted that there have been no major changes to the Charters since the Auditor's professional guidelines and legislations still remain the same. The documents are then submitted to achieve the necessary compliance requirements.

Accordingly,

COMMITTEE RECOMMENDS:

4.1.1 That Council approves the reviewed Audit Committee Charter for the 2023-24 financial year, it being recorded that there have been no major changes effected since the Auditor's professional guidelines and legislations still remain the same, and with the Charter being reviewed as per the requirements in terms of Section 166 of the Municipal Finance Management Act No. 56 of 2003, Section 45 of the Local Government: Municipal Systems Act No. 32 of 2000, National Treasury MFMA Circular No. 65, whereby the Audit Committee Charter require an annual review and update to ensure relevance and consistency with the MFMA, Municipal Systems Act (No.32 of 2000) and the other related regulations, guides and best practice, it being recorded that the Charter is attached to the Report by the Chief Audit Executive dated 22 May 2023.

4.1.2 That Council notes the reviewed Internal Audit Unit Charter for the 2023-24 financial year, which review has also been informed by the legislative prescripts cited in .1 above, it being recorded that the Charter is attached to the Report by the Chief Audit Executive dated 22 May 2023.

Item 4.1.1 ADOPTED & Item 4.1.2 NOTED.

4.2 **REVISED TERMS OF REFERENCE FOR GOVERNANCE AND HUMAN RESOURCES COMMITTEE**

(Page 163)

The Executive Committee was advised of the need to revise Terms of Reference for the Governance and Human Resource Committee. This is aimed at formalizing the incorporation of the aspects relating to the standardization for naming and remaining of streets; roads; buildings; and monument within the jurisdiction of the eThekweni

Municipality. The amendment is reflected as item (S) under the functions of the Committee in the Terms of Reference document.

With the Committee noting that this is a compliance requirement, accordingly

COMMITTEE RECOMMENDS:

4.2.1 That Council approves the amendment of the Governance and Human Resources Committee Terms of Reference by the addition of articles:

- (a) 2.3.2.1 (s):
Standardization for naming and renaming of streets; roads; buildings; and monuments
- (b) 2.3.2.2 (m):
To give effect to the objectives of the South African Geographic Names Council Act No. 118 of 1998 by:
 - (i) Identifying geographical features for possible naming and renaming
 - (ii) Assisting and advising the communities in identifying geographical names for possible standardization
 - (iii) Receiving and processing submission and applications from individual and organisations regarding the standardization of geographical names
 - (iv) Identifying monuments within eThekweni Municipality for possible naming and renaming;
 - (v) Conducting public participation programmes in which the proposed names or change name are discussed by the relevant stakeholders;
 - (vi) Ensuring that the standardization of geographical names and renaming takes place in line with the guidelines published by the KwaZulu-Natal Provincial Geographic Names Committee (KZNPGNC);
 - (vii) Conducting awareness activities about the programmes of standardizing geographical names or renaming and ensuring that the public is adequately informed about the processes and any new changes that may relate to the geographical names;
 - (viii) Preparing and submitting reports on a regular basis to the KwaZulu-Natal Provincial Geographical Names Committees and;
 - (xi) Interfacing with Development Planning, property developers and residents on the naming of any new settlements, streets, public spaces or any related geographical feature.

4.2.2 That authority be granted for the Deputy City Manager: Governance and Internal Relations to finalise the standardization for Naming and Renaming of Streets, Roads, Buildings and Monuments.

ADOPTED.

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

FOURTH REPORT OF THE EXECUTIVE COMMITTEE

(Special Meeting held 2023-06-15)

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

ABSENT : Executive Committee Members TM Mthethwa and BT Ntuli.

1. NOTING OF INTENTION TO UTILISE SECTION 116(3) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003 TO AMEND CONTRACTS NUMBER 1A-40924, 1A-40925, 1A-40926, 1A-40927, 1A-40928 (CONTRACTORS) AND CONTRACT IS-720, IS-723, IS-724 (CONSULTANTS) FOR MANAGING CONTRACTS AND PROFESSIONAL SERVICES FOR THE WARD-BASED COMMUNITY INFRASTRUCTURE PROJECTS TO UNDERTAKE EMERGENCY REHABILITATION AND CONSTRUCTION OF THE SANITATION AND WASTEWATER INFRASTRUCTURE DAMAGED BY STORMS (9/1/3 & 23/1/11/2/1/2)

(Page L79)

The Executive Committee noted the reasons for the proposed amendment of the eight (08) Contractors currently appointed under the Community Infrastructure Programme (CIP) for the rehabilitation of the water and sanitation infrastructure damaged by the storms. The contracts involve are 1A-40924, 1A-40925, 1A-40926, 1A-40927, 1A-40928, 720, IS-723, IS-724. The existing contracts are due to expire in November 2023.

The collaboration between the Human Settlements, Engineering and Transport and the Trading Services Clusters have become necessary in view of extensive damages in the region and the influx of requests to rehabilitate infrastructure, it being noted that the role of the CIP is to undertake infrastructure projects within the various Wards of the eThekweni Municipal area.

During discussions, the significance of completing infrastructure rehabilitation was acknowledged thereby restoring provision of service to the local communities. Also taking into consideration threats to the environment when repairs are not undertaken. On the other hand, some Members expressed reservations as there has been insufficient time to interrogate the Report from different angles in view of it being laid-on table in this meeting. Mention being made that it is not clear which Wards are being prioritised for repairs; specific projects to be undertaken; indication of the source of funding and whether there are no projects to be compromised through funds being drawn therefrom; as well as indication of the projects' completion time. However, the rehabilitation of infrastructure was considered crucial.

The Committee was informed that all One Hundred and Eleven (111) Wards of the eThekweni Municipality would be prioritised and that contractors are appointed to service the regions, with funding to be allocated according to the severity of the

repairs to be undertaken per region. Confirmation was also given that some of the repairs have already been catered for within the Municipal Disaster Relief Grant.

Regarding the actual projects, it was agreed that a list of projects be included in the Report to be submitted to Council. Thereafter, with the Committee supporting the contracts amendments in view of the importance to rehabilitate infrastructure for the benefit of the local communities, accordingly,

COMMITTEE RECOMMENDS:

1.1 That Council notes the reasons to amend Contracts Number 1A-40924, 1A-40925, 1A-40926, 1A-40927, 1A-40928 (Contractors) and contract IS-720, IS-723, IS-724 (Consultants), utilising Section 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, to manage contracts and professional services for the Ward-Based Community Infrastructure projects to undertake emergency rehabilitation and construction of the sanitation and wastewater infrastructure damaged by storms, due to the following reasons:

- i. There is an urgent need to restore sanitation and wastewater infrastructure damaged by the April/May 2022 floods to mitigate pollution to the public and environment.
- ii. A need exists to avoid legal ramifications due to the current situation of raw sewerage discharging directly into rivers and stream thus a contravention of people’s human rights to safe living conditions.
- iii. Damaged infrastructure results in continued lack of service delivery to local communities and with the repairs to be undertaken to then ensure provision of quality and supply of potable water is improved.
- iv. With no repairs undertaken, various rivers and streams which feed into the ocean will remain polluted with sewerage and this will result in further illness of the residents of eThekweni and loss of income to the eThekweni Municipality due the beaches being closed
- v. The current Professional Team and the Management Contractors have to date acquired valuable institutional knowledge of the site conditions and specifications throughout all the Wards, which will be lost should a new Team be appointed, resulting in further implementation delays.

1.2 That Council notes the intention to amend the contract was advertised as per the statutory requirement and there were no objections received from various stakeholders.

1.3 That it be noted the projects involved are as per the table below:

| Contract Number | Region | Number of CIP ward Allocation | EWS Project names |
|------------------------|---------------|--------------------------------------|---|
| 1A-40924 | North | 25 | Riet River Upper - Ward 102 Riet River lower – Ward 102 Peace Palm – Ward 51 |
| 1A-40925 | South | 25 | Umlazi Canal – Ward 74 Ngonyameni – Ward 100 Mega Philani Mall – Ward 86 & 94 |

| Contract Number | Region | Number of CIP ward Allocation | EWS Project names |
|-----------------|---------|-------------------------------|--|
| | | | Umlazi W Section – Ward 82 Prospecton Bridge – Ward 90 & 93 |
| 1A-40926 | Central | 19 | |
| 1A-40927 | West 1 | 21 | Gilbert – Ward 63 |
| 1A-40928 | West 2 | 21 | |

Notes: The CIP projects for the 2023/24 financial year is being consolidated for the work to be carried out for the R3 million per ward allocation.

Financial Implications:

Existing Financial Authority:

| Name of Contractor | Contract No | Original Contract Value | Spend to Date as 12/05/2023 | Remaining Contract Sum | 20% Adjustment | Total Available Authority |
|---|-------------|-------------------------|-----------------------------|------------------------|----------------|---------------------------|
| UHLANGA ENTERPRISE | 1A-40924 | 150 000 000 | 190 633 709 | 40 633 709 | 180 000 000 | 10 633 709 |
| SILO NOBINDA JV | 1A-40925 | 144 000 000 | 111 957 039 | 32 042 961 | 172 800 000 | 60 842 961 |
| SEDTRADE (PTY) LTD | 1A-40926 | 144 000 000 | 69 809 860 | 74 190 140 | 172 800 000 | 102 990 140 |
| MAKHATHINI PROJECTS IM | 1A-40927 | 126 000 000 | 121 807 751 | 4 192 249 | 151 200 000 | 29 392 249 |
| DURANT/ VELILE JOINT VENTURE | 1A-40928 | 126 000 000 | 97 812 568 | 28 187 432 | 151 200 000 | 53 387 432 |
| | | | | | | |
| Name of the Professional Service Provider | Contract No | Original Contract Value | Spend to Date | Remaining Contract Sum | 20% Adjustment | Total Available Authority |
| MMK GROUP | IS-723 | 11 819 871.30 | 12 241 914.19 | -422 042.89 | 14 183 845.56 | 1 941 931.37 |
| T SQUARE ENGINEERS | IS-724 | 13 567 212.50 | 11 706 549.69 | 1 860 662.81 | 16 280 655.00 | 4 574 105.31 |
| NANKHOO XARIBA | IS-720 | 9 309 250.00 | 4 849 518.95 | 6 519 564.75 | 11 171 100.00 | 6 321 581.05 |

Requested extension to existing financial authority and time extension:

| Contract No | Original Value of appointment plus 20% Inc VAT | Additional Authority Seeking | Time extension cost to June 2024 | VAT | Total Extension Seeking Inc. VAT | % |
|-------------|--|------------------------------|----------------------------------|----------------|----------------------------------|------------|
| | | | | | | Extensions |
| 1A-40924 | R180 000 000.00 | R148 750 000.00 | 7 Months | R22 312 500.00 | R171 062 500.00 | 95.03% |
| 1A-40925 | R172 800 000.00 | R81 132 500.00 | 5 Months | R12 169 875.00 | R93 302 375.00 | 53.99% |
| 1A-40926 | R136 800 000.00 | R72 450 000.00 | 9 Months | R10 867 500.00 | R83 317 500.00 | 60.90% |
| 1A-40927 | R151 200 000.00 | R99 916 718.51 | 13 Months | R14 987 507.78 | R114 904 226.29 | 75.99% |
| 1A-40928 | R151 200 000.00 | R68 550 000.00 | 13 Months | R10 282 500.00 | R78 832 500.00 | 52.14% |
| | | | | | | |
| IS-723 | R11 171 100.00 | R26 383 937.48 | 0 Months | R3 957 590.62 | R30 341 528.10 | 271.61% |
| IS-724 | R14 183 845.56 | R11 838 000.00 | 0 Months | R1 775 700.00 | R13 613 700.00 | 95.98% |
| IS-720 | R16 280 655.00 | R11 495 435.00 | 0 Months | R1 724 315.25 | R13 219 750.25 | 81.20% |

The increase requested is made up as follows:

| Department/Unit | Source | Vote | Amount |
|-----------------|--------|------|--------------|
| CIP Block Sum | | | R333 000 000 |

| Department/Unit | Source | Vote | Amount |
|------------------------|---------------|-------------|---------------|
| EWS | | | |
| Economic Development | | | |

At this stage of the proceedings, both the DA and the ANC requested for five minutes caucus and was accordingly granted by the Speaker of Council.

Providing report back, the DA expressed that they would like to propose a reference back of the item to the Human Settlements Committee. That the said Committee should have been afforded to deliberate on the item prior to it reaching the Council; and that apparently insufficient time has been provided to deal with the matter which appears to have huge financial implications and; lastly, that there appears to be inconsistencies in the Ward Numbers mentioned.

Accordingly, Councillor Y Govender, seconded by Councillor A Beetge submitted the Reference Back, in terms of Rule 20(1)(c) of the Rules of Order By-Law 2014, as amended, which read as follows:

“Item be referred back to the Human Settlements and Infrastructure Committee for oversight, with further deliberations on the recommendation of the item to seek clarity on the financial implications, including submission of full schedule of all Wards and projects impacted.”

Meanwhile, the ANC reported that the caucus was used for dealing with housekeeping issues particularly around In- Committee matters.

Speaking on the reference back, His Worship the Mayor raised a point of order by affirming that the report was submitted to Council to note reasons for contract amendment and the public consultation process. That Council has no mandate over supply chain management matter but that this is the competence of the Bid Adjudication Committee.

At this stage of the proceedings, the Head Legal and Compliance Unit advised that it was unnecessary to vote on the reference back since powers with respect to contract amendments rest with the Bid Adjudication as per the legislative requirement. That Council is only noting reasons for contract amendment and that reservations can be expressed and to be presented to the Bid Adjudication Committee accordingly.

Welcoming the legal opinion and guidance on the matter, the Speaker ruled that there will be no voting on the reference back. An opportunity having been created to submit views, the DA expressed the need for the BAC to provide clarity on areas such as incorrect Ward numbers, the expiry of contracts, where the budget of R330 million was sourced from, the criteria used in prioritizing certain contracts, the exclusion of certain Wards from the programme, and the criteria used in determining the Wards to benefit from the programme.

Meanwhile, the EFF noted and appreciated the report with a view that it was unnecessary to delay the matter so as to fastrack the rehabilitation programme, The EFF urged strongly that the process of rehabilitating damaged infrastructure be prioritised to ensure timeous restoration of infrastructure.

The ActionSA supported the report on the basis that it was going to swiftly restore sanitation and wastewater infrastructure damaged by the April floods. That projects delay be avoided but this be carried out with full accountability.

Meanwhile, the ADEC cautioned that it was such opportunities where the Council should be safeguarded to adequately play required oversight. That the Council should not be compelled to take decisions prematurely since clarity is required on several aspects of the report presented. In noting the report, the ADEC believed that Council should still find a way of affording the relevant Portfolio Committee an opportunity to interrogate the report and contribute accordingly particularly around financial implications.

In appreciating the report, the ANC cautioned against delaying the matter further. On the issue of funding, the ANC confirmed availability through existing budget and through application for grants extension.

That Council previously took a decision that the CIP contracts be utilised, however due to extension of scope, thus not being in alignment with the initial contract there is a need to then amend this contract in line with the relevant legislative framework.

Given the explanation and noting submissions made, the item was accordingly, **NOTED.**

(At this stage of the proceedings Councillor CB Dlamini in his capacity as a member of the Municipal Public Accounts Committee, presented the report of the Committee).

REPORT OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

1. FIRST REPORT – ASSESSMENT OF MPAC FUNCTIONALITY OF UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE (UIFW) OVERSIGHT PERIOD ENDING 31ST DECEMBER 2022 (QUARTER 2 OF 22/23)

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

2. *A municipality must recover unauthorised, irregular, or fruitless expenditure and wasteful expenditure from the person liable for that expenditure unless the expenditure –*

(a) *In the case of unauthorised expenditure, is –*

(i) *authorised in an adjustment budget; or*

- (ii) *certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by Council; and*
- (b) *In the case of irregular expenditure is, after investigation by a council committee, certified by the council as irrecoverable and written off by council.*
3. *If the accounting officer became aware that the council, the mayor or the executive committee of the municipality has taken a decision, which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided the accounting officer has informed the council, the mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.*

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

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

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

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

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

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

As COGTA requires the assessment report to be submitted by the second quarter of the financial year 2022/2023, we have acceded to the request and completed the assessment.

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

Therefore,

COMMITTEE RECOMMENDS:

That the Assessment of Municipal Public Accounts Committee Functionality of Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) Oversight for the period ending 31st December 2022 (Quarter 2 of 2022/2023) attached to the report as Annexure 1, be noted.

NOTED.

2. SECOND REPORT - ASSESSMENT OF MPAC FUNCTIONALITY OF UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE (UIFW) OVERSIGHT PERIOD ENDING 31ST MARCH 2023 (QUARTER 3 OF 22/23)

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

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

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

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

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

to Council on its performance based on COGTA's tool for the assessment of functionality on UIFW Oversight.

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

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

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

As COGTA requires the assessment report to be submitted by the third quarter of the financial year 2022/2023, we have acceded to the request and completed the assessment.

We are proud to report, as per the Assessment of MPAC's functionality on UIFW Oversight, (**Annexure 1**), that MPAC has achieved 86% for the third quarter and is fully functional.

Therefore,

COMMITTEE RECOMMENDS:

That the Assessment of Municipal Public Accounts Committee Functionality of Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) Oversight for the period ending 31st March 2023 (Quarter 3 of 2022/2023) attached to the report as Annexure 1, be noted.

NOTED.

3. THIRD REPORT - QUARTERLY REPORT FOR THE THIRD QUARTER
2022/2023 FINANCIAL YEAR: JANUARY TO MARCH 2023

2022/2023:
Quarterly
Report:
MPAC

March 31

2023

Report of the Municipal Public Accounts Committee (MPAC) for the
third quarter of 2022/2023 financial year: January to March 2023

Municipal Public
Accounts
Committee
(MPAC)

TABLE OF CONTENTS

1. CHAIRPERSON'S STATEMENT
2. MEMBERSHIP AND MEETINGS OF THE MUNICIPAL
PUBLIC ACCOUNTS COMMITTEE
3. ROLE OF THE COMMITTEE
4. SUMMARY OF COMMITTEE ACTIVITIES FOR
PERIOD OCTOBER 2022 TO DECEMBER 2022
5. MUNICIPAL PUBLIC ACCOUNTS COMMITTEE
COMMENTS AND FINDINGS FOR SECOND QUARTER OF 2022/2023
6. WORKSHOPS AND TRAINING
7. RECOMMENDATIONS

3.1 CHAIRPERSON'S STATEMENT

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

We spent the latter two months of the third quarter interrogating the findings of the Audit Report 2021/2022 and calling in officials to respond to such findings. We completed our Oversight Report timeously and it was adopted by Council on 30th March 2023. However, a recurring challenge that we have been experiencing is the inability for our meetings to quorate or for them to end prematurely due to the lack of a quorum. This has had a negative impact on the Committee's functionality. We are hopeful that our membership will be resolved by Council soon to enable us to undertake our responsibilities effectively.

As an oversight Committee, we are working steadily to address the many issues which impact service delivery. It is our aim to hold Management accountable and contribute fully to the achievement of clean administration and good governance by the Municipality.

Councillor Thamisanqa Xuma
Chairperson: Municipal Public Accounts Committee
eThekweni Municipality

3.2 MEMBERSHIP AND MEETINGS OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

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

3.2.1 Membership of the Municipal Public Accounts Committee during the third quarter of 2022/2023:

| NO. | SURNAME | NAMES | DESIGNATION | PARTY |
|-----|---------|---------------------|--------------------|-------|
| 1 | Xuma | Thamisanqa | Chairperson | EFF |
| 2 | Mkhize | Pearl | Deputy Chairperson | ANC |
| 3 | Beesley | Alan David | Member | ASA |
| 4 | De Boer | Shontel | Member | DA |
| 5 | Fortein | Barbara | Member | ANC |
| 6 | Jokweni | Mfanafuthi Arthur | Member | ANC |
| 7 | Kissoon | Alicia | Member | DA |
| 8 | Sibisi | Kethokuhle Siboniso | Member | DA |
| 9 | Naidoo | Jane | Member | IFP |
| 10 | Thusi | Muzikayise | Member | ANC |
| 11 | VACANCY | | Member | ANC |

Councillor Pearl Mkhize resigned as a Councillor on 1st March 2023, and we wish her well in her future endeavours. This has left us with two vacancies on the Committee.

3.2.2 Attendance of Members at Municipal Public Accounts Committee for the third quarter 2022/2023:

| Name | Feb 07 | Feb 08 | Feb 16 | Mar 02 | Mar 16 | Mar 22 | Mar 23 | Mar 27 | Mar 28 |
|--|--------|--------|--------|--|--------|--------|--------|--------|--------|
| Councillor T Xuma (Chairperson) | P | P | P | P | L | L | P | P | P |
| Councillor P Mkhize (Deputy Chairperson) | P | P | P | Resigned as a Councillor on 1 st March 2023 | | | | | |
| Councillor AD Beesley | P | P | P | P | P | L | P | L | P |
| Councillor SV De Boer | P | P | P | P | P | P | P | P | P |
| Councillor B Fortein | P | P | P | L | P | P | P | P | P |
| Councillor MA Jokweni | P | P | P | L | A | P | A | A | A |
| Councillor A Kissoon | P | P | P | P | P | P | P | P | P |
| Councillor J Naidoo | P | P | P | P | P | P | P | L | P |
| Councillor KS Sibisi | P | P | P | L | P | P | P | L | P |
| Councillor M Thusi | P | L | P | P | P | P | P | L | P |

3.3 ROLE OF THE COMMITTEE AND COMMENTS

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

3.4 SUMMARY OF COMMITTEE ACTIVITIES FOR PERIOD JANUARY 2023 TO MARCH 2023

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

| Activity | Number |
|---------------------------|---------------|
| Reports Tabled | 53 |
| Deliberative Meetings | 9 |
| Interviews with Officials | 43 |
| Hearings | 4 |
| Briefings | 1 |
| Witnesses Appearing | Nil |

3.5 MUNICIPAL PUBLIC ACCOUNTS COMMITTEE COMMENTS AND FINDINGS FOR THE THIRD QUARTER OF 2022/2023

3.5.1 MPAC Workplan 2022/2023:

As per the MPAC Workplan 2022/2023 adopted by Council on 2022-06-30, the following reports were received and considered by Committee during the 3rd quarter:

- Budget Statement Reports for the months ending October, November & December 2022
- Monthly Tender Awards of Ethekewini Municipality for the months of October, November & December 2022
- Review of External Service Provider Performance Monitoring by Units within the Municipality for Quarter 1 of 2022/2023 Financial Year
- Unauthorised, Irregular, Fruitless and Wasteful Expenditure recommended for Write Off or Recovery as at 30th September and 31st December 2022
- City Integrity and Investigations report for the 1st and 2nd quarter 2022/2023
- Disciplinary Board for Financial Misconduct for 2nd Quarter 2022/2023

3.5.2 Tracking of Auditor General's Findings 2020/2021:

Committee had requested Unit Heads to provide progress reports on the remedial actions to address their outstanding findings for the above period. During this quarter, updates were provided by the following Heads:

- Water and Sanitation
- Supply Chain Management
- Cleansing and Solid Waste

We have communicated with other Heads of Units and are awaiting their progress reports.

3.5.3 Irregular Expenditure:

This continues to be an area of great concern to MPAC. We are in the process of interrogating large amounts of irregular expenditure in order for the same to be recovered or written off. This has proven to be a lengthy process as Committee has to apply its mind to the root cause, why it may be a repeat finding and what controls have been put in place to mitigate against future non-compliance.

3.6 WORKSHOPS AND TRAINING

Members attended COGTA training in respect MPAC's oversight roles and responsibilities within local Municipalities on 13th & 14th March 2023.

The Auditor General South Africa held an MPAC Capacitation session; to enable and strengthen oversight over municipal affairs as well as provide insight and support to improve accountability within the Municipality.

3.7 RECOMMENDATIONS

COMMITTEE RECOMMENDS:

That the report of the Municipal Public Accounts Committee for the third quarter of the 2022/2023 financial year, from 1st January to 30 March 2023, be noted.

NOTED.

4. FOURTH REPORT - UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL (UIFW) EXPENDITURE MULTIPLE FINANCIAL YEARS FROM 2017/2018 TO DATE (2022/2023)

BACKGROUND:

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

The section reads as follows:

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

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

ANALYSIS OF UIFW CASES FINALISED:

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

- A report was prepared by the Unit that incurred irregular expenditure after investigation by the said Unit. The report disclosed the deviation from Supply Chain Management Policy, the reasons for the deviation and the value of the expenditure.
- The report together with the supporting documents were submitted to the Internal Control Unit for review and thereafter were submitted to the Bid Adjudication Committee for noting purposes.
- The Internal Control Unit reviewed and applied its mind on the report and considered whether there was any value for money obtained by the municipality, or any losses suffered by the municipality due to non-compliance detected using the following questions:
 - (a) The nature of the irregularity
 - (b) Whether or not the contracts followed the SCM public tender process
 - (c) Whether or not the Unit Head had certified that value for money was received
 - (e) Whether or not the Unit Head has confirmed that goods or services were delivered as per contract specifications and initial contract rates
 - (f) Whether corrective action needed to be undertaken
 - (g) 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 **R1 014 204 224.97** (One billion fourteen million two hundred and four thousand two hundred and twenty-four rands and ninety-seven cents) was identified by following sources namely:

| Source | Annexure | Amount |
|--------------------------------------|----------|--------------------------|
| Internal Control | A | R857 350 423.51 |
| City Integrity & Investigations Unit | B | R132,352,576.59 |
| | C | R24,501,224.87 |
| TOTAL | | R1 014 204 224.97 |

Furthermore, of the cumulative UIFW incurred, an amount of **R24,501,224.87** (Twenty four million five hundred and one thousand two hundred and twenty-four rands and eighty-seven cents) was deemed recoverable as a result of investigations undertaken by the City Integrity and Investigations Unit.

We interviewed each Unit Head and relevant Officials to establish the root causes of the UIFW expenditure. We 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, we noted that matters had been referred for criminal investigation.

Having duly considered and deliberated on the UIFW expenditure concerned,

COMMITTEE RECOMMENDS:

- 4.1 That in compliance with Section 32(2) of the Municipal Finance Management Act (MFMA), irregular, fruitless and wasteful expenditure totaling **R989,703,000.10** (Nine hundred and eighty-nine million seven hundred and three thousand rands and ten cents) as detailed in “**Annexures A & B** of this report be certified as irrecoverable and written-off by Council based on the outcomes of the investigations of such expenditure.
- 4.2 That in compliance with Section 32(2) of the Municipal Finance Management Act (MFMA), fruitless and wasteful expenditure totaling **R24,501,224.87** (Twenty-four million five hundred and one thousand two hundred and twenty-four rands and eighty-seven cents) as detailed in **Annexure C** of this report be recovered from the relevant or former officials of the Municipality as well as entities and service providers.
- 4.3 That it be noted that any consequence management recommendations will be dealt with in accordance with the Council Policy in relation to financial misconduct and oversight by the Financial Misconduct Disciplinary Board.

In addition to a presentation by Councillor Dlamini, Councillor B Fortein of the MPAC drew the attention of Council to the fourth report of MPAC relating to a recommendation to the Council to write off the irregular expenditure incurred.

Thereafter, the Council engaged on prolonged debate regarding Councillor Dlamini presenting the Report.

The DA in particular felt that Dlamini just rejoined Council and has not been party to the other discussions of the Committee matters. That another MPAC members should have presented the report.

In response, the ANC dismissed the views raised about Councillor Dlamini, pointing out that he is capable to present and respond to the MPAC matters, it also being submitted that he has already attended a couple of meetings. That Dlamini has been officially mandated to present the Report to the Council.

In debating the actual matter, the ADEC referred to the fourth report of the MPAC and expressed concern around the amount of R857 350 423.51 million irregular expenditures, and the concern based on the referral of cases to the Financial Misconduct Disciplinary Board where clarity was sought whether the board submit outcome on cases referred to it.

Speaking on the capacity of being an MPAC member, the DA Councillor Kissoon was of the view that the MPAC report was lacking certain information around the City Integrity and Investigations Unit (CIU) capacity challenges as a contributory factor to the increasing backlog of cases escalated to the CIU. A concern was mainly that Councillor Dlamini was not privy to such information and as such did not cover that information even though it was not included on the report.

Furthermore, Councillor Kissoon expressed that there were huge delays in respect of dealing with cases related to irregular expenditure and that this often results in such cases being prescribed. She added that the MPAC is mandated to ensure those implicated in respect of irregular expenditure are held to account. Therefore, there was a need to ensure that consequence management forms part of every single cent being written off as a result of the irregular expenditure.

The Speaker then urged the MPAC Members to speak as a collective on the MPAC reports submitted since this was a Committee not individual member's report. That the Council will confine itself to information contained in the report being presented without entertaining matters not formalized in terms of the report.

Commenting on the matter, the ANC applauded the MPAC for the presentation of the Committee quarterly report. Gratitude was extended to Councillor Dlamini for doing a sterling job in tabling the report to the Council on behalf of the Chairperson and the Committee.

Furthermore, the ANC appreciated the report and committed to providing the required support to MPAC as per the appeal made by Councillor Dlamini on behalf of the Committee. In addition, the ANC commended the spirit displayed by the MPAC in ensuring adequate delegations of authority to purposes of continuity. Furthermore, encouraged other Committee consider implementing a similar practice.

Moreover, the ANC was of the view that it was not appropriate for other MPAC members to raise concerns around the issues not entirely covered on the report since the report was a collective Committee effort. However, that members were allowed to raise issues which they felt should have been covered in the report, but with this not being done in a manner degrading other members.

Regarding the irregular expenditure, the ANC clarified that this does not mean value for money was not obtained, but that this relates to certain processes not having been followed. Therefore, there was no fraudulent activities involved since service was rendered and the Council benefitted in terms of achieving the required service delivery.

The ANC further explained that procedurally irregular expenditure cases were referred to the Financial Misconduct Disciplinary Board and that Council should have comfort that matters would be dealt with in a specialised approach to probe further and deal with issues of corruption, if any. It was also confirmed that the issue of the backlog has been attended to and that good turnaround time is now expected in resolving cases.

The ANC appreciated that the write off process is dealt with within the applicable legislative process and that value for money was obtained, it being recorded that matters are probed further by the Financial Misconduct Board for total accountability. Therefore, overall, the ANC supported the recommendation of the MPA Committee.

As some members were not in support of the recommendations, the matter was put to the vote. With 168 Councillors present, 103 Councillors (ANC - 80, EFF – 16; ACTION SA-01; ACC - 00, ACDP – 00; 01; APF – 01; AIC- 02; ATM - 01; ALJAMAH – 00; JEP -00; KZNI – 01 ; NFP -01; PFP – 00; TA- 01; and VF Plus – 01)) voted in favour of the recommendations, 03 voted against (DLC-01; ADEC-01 and UIM-01), and 62 Councillors (DA- 42; IFP-16; ABC-01; MF-01 ; MOSA- 01 and PRM- 01) abstained on the matter.

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

REPORT OF COMMITTEE DECISIONS

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

1. **COMMUNITY SERVICES COMMITTEE**

Meeting held on : 2023-04-13

2. **ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE**

Meeting held on : 2023-04-20

3. **EXECUTIVE COMMITTEE**

Meeting held on : 2023-04-24
: 2023-04-26

4. FINANCE COMMITTEE

Meeting held on : 2023-04-19

5. HUMAN SETTLEMENT AND INFRASTRUCTURE COMMITTEE

Meeting held on : 2023-04-04

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

Meetings held on : 2023-04-12
: 2023-05-10

7. SECURITY AND EMERGENCY SERVICES COMMITTEE

Meeting held on : 2023-03-22

8. TOWN PLANNING APPEALS COMMITTEE

Meeting held on : 2023-05-11

9. SPEAKER'S COMMITTEE

Meeting held on : 2023-04-24

ITEMS FOR NOTING

The Items for Noting, reflected on Pages 66 to 70 of the Agenda, pertaining to the items discussed and resolved at the Executive Committee level during the month of April 2023 were, **NOTED.**

The meeting terminated at 16h45.

APPROVED AT THE MEETING OF THE ETHEKWINI COUNCIL ON 2023-07-30.

SPEAKER