

**No. 48**

# **MINUTES**

## **OF**

### **ETHEKWINI MUNICIPAL COUNCIL**

Meeting held Tuesday, 2023-10-10T10:00, through MS Teams streamed from  
Luthuli Hall, Durban City Hall

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**PRESENT :** Councillors TE Nyawose (Speaker), A Abdul; J Annipen, A Beetge, M Billy, T Biyela, JM Black, NJ Bollman M Brauteseth, MH Buthelezi, WJD Burne, SB Cele, SP Chebure, J Chetty, R Cloete, SV De Boer, CB Dlamini, J Essop, BA Fortein, SG Gama, GM Gasa, DM Gcabashe, FO Gcabashe, NBC Godlwana, R Gokool, G Govender, S Govender, SV Govender, Y Govender, NC Gumede, BR Gumede, S Gumede, MS Gwala, GJ Hegter, MM Hlengwa, NP Hlomuka, SD Hlongwa, MF Ismail, F Ismail, LBS Jali, M Johnson, MA Mgobhozi, K Khambule, MH Khan, MN Khubisa, KNN Khubone, NL Khuzwayo, ZW Khuzwayo, SNC Khwela, A Kisson, BG Kubheka, V Kunju, CJ Laing, SW Lushaba, M Lutchmen, WM Luthuli, ME Mabaso, NI Madlala, RP Maharaj, A Maharaj; S Maharaj, FN Majola, HS Makhathini, TG Makhanya, MW Manqele, JB Maphumulo, NJ Maphumulo, TZ Mathe, SH Mazibuko, WM Mazibuko, M Mbambo, KT Mbhele, RP Mbonambi, RD Macpherson, NP Mchunu, JL Mchunu, RL McKenzie, X Mdlazi, FW Mdletshe, DL Mea, SP Mfeka, DPM Mhlongo, GN Mhlongo, NM Mhlongo, SE Mhlongo, T Miya, MB Mjadu, AZ Mkhize, KV Mkhize, ME Mkhize, MP Mkhize, NN Mkhize, SM Mkhize, TJ Mkhize, B Mkhwanazi, BR Mngadi, DF Mngadi, E Mngadi, SV Mngadi, TJ Mnguni, ZM Mncwango, S Mngadi, DP Mngoma, MR Mngonyama; BV Mngwengwe, ZO Mnomiya, S Mnyandu, SR Moodley, T Mohamed, R Moses, ND Motseke, SB Mpanza, LI Msomi, DV Msweli, LG Mthembu, SSS Mthethwa, TD Mthethwa, TM Mthethwa, ZP Myeni, SK Mzimela, N Munien, J Naidoo, V Ncukana, NB Ndlela, AB Ndlovu, PB Ndlovu, PC Ndlovu, NS Ndlovu, V Ndlovu, SG Nene, TH Nene, SB Ngcongo, DB Ngubane, LE Nkomeni, MS Nkosi, DR Nowbuth, DM Nsundwane, SH Ntombela; PC Ntshangase, BT Ntuli, N Ntuli, ZN Ntuli, PB Ntuli, B Nxumalo, MR Nxumalo, PH Nxumalo; NN Nyanisa, MV Nzimande-Madlala, AAK Paruk, AE Peterson, BW Phewa, DT Pillay, P Pillay, GDA Pullan, A Rampersad, A Shaheed; BH Shange, MG Shange, TE Shezi, IM Shinga, HP Shoji, JN Sibisi, KS Sibisi, WP Sibiya, LC Sikakane, BSB Sindane, J Singh, EL Singh, S Singh, PS Sishange, CN Sisoka, NI Sithole, BS Sivetye, EG Smith, AD Snyman, ZR Sokhabase, ZA Solomon, I Syed; M Thusi, ZN Tshazela, NT Tyelinzima, JC Van den Berg, HM Van Der Ryst, NI Webster, SM Windvogel, TV Xulu, NY Young; GN Zondi, M Zondi, ON Zondi-Mthembu, TG Zungu and there being three (03) vacancies.

**ABSENT :** Councillors TM Kaunda (Mayor – Municipal Business), AD Beesley (Indisposed), KPM Cele, Z Dzanibe, SN Gabela, BM Gwala (Indisposed), DM James, NP Khawula; MA Madlala, SR Madlala, BA Mchunu (Indisposed), K Mhlaba (Indisposed), SW Mcineka, NA Mkhize, MA Mkhize, OB Mvubu (Indisposed), BD Naidoo, MF Ndlovu; MS Nkosi (Personal Commitments), BW Phewa (Personal Commitments), XM Nqweniso, VG Reddy (Overseas Trip), T Sabelo, S Sewshanker (Personal Commitments), BB Thusi, ME Thusi, NB Vilakazi, T Xuma and N Zondi.

AMAKHOSI

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

OFFICIALS

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

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At the commencement of the meeting, confirmation was given that the meeting was quorate, with 173 Councillors present at this stage and categorised as follows:

ANC - 80, DA - 50, EFF - 07, IFP - 14, ActionSA - 03, ABC - 01, ACC - 02, ACDP - 02, AIC - 01, ADEC - 00, APF - 01, ATM - 01, AL JAMA-AH - 01, DLC - 01, JEP - 00, KZNI - 01, MF - 01, MOSA - 01, NFP - 01, PFP - 01, PRM - 01, TA- 01, UIM - 01 and VF Plus - 01).

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1. NOTICE CONVENING THE MEETING

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

2. OPENING

The Speaker declared the meeting open at 10h03 and extended a warm welcome to Councillors; Traditional Leaders; City Manager; Deputy City Managers; Head: Legal & Compliance and other Unit Heads; Members of the Administration; Media; and Members of the public viewing live on social media streaming platforms.

3. AFRICAN UNION AND NATIONAL ANTHEM

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

4. OPPORTUNITY FOR PRAYER/MEDITATION

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

5. OFFICIAL ANNOUNCEMENTS

5.1 As the meeting was convened through Microsoft Teams, it became necessary for the Speaker to remind attendees of distinct conduct required thereby maintaining stable connection and minimizing inconvenience during the proceedings. Attendees, in particular the Council members were then requested to act in line with the submission below:

- (i) To ensure connection this meeting is done from a decent environment, with no disturbance to be caused by the surroundings, and it also being noted that some of the Council matters under discussion are of a confidential nature;
- (ii) To be presentable since this was still a formal Council meeting, thus maintaining professionalism at all times;
- (iii) To raise a hand to be recognized when requesting to speak on the item;
- (iv) To switch off the video camera to improve stability of the network;
- (v) To connect in the area with a stable network since some of the technical glitches experienced are not coming from the City Hall streaming but, from specific different areas of connection; and
- (vi) To stay connected for the duration of the meeting to maintain quorum.

5.2 Thereafter, Councillors were requested to complete the Attendance Register posted on the MS Teams Chat and that any Councillor experiencing a challenge should contact Administration for assistance.

5.3 Congratulatory remarks were extended to the City of eThekweni for successfully hosting the biggest event in the Soccer Calendar, the MTN8 Final between Orlando Pirates and Mamelodi Sundowns football clubs on 07 October 2023 in the Moses Mabhida Stadium. Appreciation was extended to the relevant eThekweni officials that worked tirelessly to ensure Durban put its best foot forward yet again as the destination of choice. Congratulations were extended to the Orlando Pirates for becoming the 2023 MTN8 Champions.

5.4 Council and the public were requested to take note of SANRAL's planned demolition of the King Cetshwayo Bridge over the weekend 14-15 October 2023, as part of the N2/N3 EB Cloete Road Upgrade. The demolition scheduled from Saturday, 14 October 2023 at 18h00 until Monday, 16 October 2023 at 05h00, and therefore closure of N3 and M13 interchange. Councillors were requested to disseminate to the public information of road closure as per the detailed document shared in this regard.

5.5 Best wishes were extended to the eThekweni Karate team to participate on the 13<sup>th</sup> World Open Karate Championship, 14-15 October 2023 at the Tokyo Metropolitan Gymnasium, Tokyo Japan.

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**Confirmation of Attendance:**

At the stage of the proceedings the Political Party Leaders/Caucus Leaders verified number of their respective members present in this meeting.

The EFF advised there was seven (07) members of them currently as others were currently experiencing connectivity challenges. It should be noted that the meeting ended up losing all EFF Councillors from participating in this meeting.

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**Verification of Status of this Council Meeting:**

At this stage of the proceedings, Councillor Mthethwa of the DA referred to the Notice of Meeting read by the City Manager, indicating this was a continuation of the Council meeting adjourned 28 September 2023. He then queried the status of this meeting, including validity of the decisions to be adopted, now that a period stipulated in Clause 10(5) of the Rules of Order By-Law 2014, as amended, has been exceeded by a day. In providing guidance from a legal perspective, the Head: Legal and Compliance clarified that Clause 10(5) is not applicable since this meeting was adjourned due to time constraints rather than being inquorate. Therefore, there is no specific timeframe attached but the Council has reconvened at its earliest convenience.

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6. SPEAKER'S REPORT

With this being a continuation meeting, it was advised that the Speaker's Report was tabled prior during the adjourned meeting.

7. APPLICATIONS FOR LEAVE OF ABSENCE

RESOLVED:

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

COUNCILLORS

Councillor AD Beesley	:	2023-10-10	Indisposed
Councillor BM Gwala	:	2023-10-10	Indisposed
Councillor MF Ismail	:	2023-10-10	To leave at 14h00
Councillor TM Kaunda	:	2023-10-10	Municipal business
Councillor B Mchunu	:	2023-10-10	Indisposed
Councillor K Mhlaba	:	2023-10-10	Indisposed
Councillor OB Mvubu	:	2023-10-10	Indisposed
Councillor PC Ndlovu	:	2023-10-10	To leave at 11h00
Councillor MS Nkosi	:	2023-10-10	Personal Commitments
Councillor BW Phewa	:	2023-10-02 to 20	Personal Commitments
Councillor V Reddy	:	2023-10-10	Personal Commitments
Councillor S Sewshanker	:	2023-10-10	Personal Commitments

8. DECLARATION OF INTEREST

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

9. CONFIRMATION OF MINUTES

The Speaker advised that the confirmation of the In-Committee Minutes for the meetings held 2023-07-13, 2023-08-15 and 2023-08-24 would be deferred to the physical meeting noting that they contained confidential matters.

10. MATTERS ARISING

It was noted that there were no matters arising for consideration.

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

The Speaker confirmed that the questions were responded to at the previous meeting as part of the main Council Agenda.

12. REPORTS:

The Speaker advised that the Executive Committee Reports contained in the agenda were previously tabled by the Mayor during the Council meeting held on 2023-09-28 and in that regard it was no longer a requirement for same to be re-tabled. The City Manager was thereafter afforded opportunity to take members through the items as contained in the Executive Committee Reports.

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**FIRST REPORT OF THE EXECUTIVE COMMITTEE**

(Meeting held 2023-09-26)

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- PRESENT : Executive Committee Members ZP Myeni (Deputy Mayor – In the Chair), A Beetge, Y Govender, NI Madlala, TM Mthethwa, MS Nkosi, BT Ntuli and ZR Sokhabase.
- ABSENT : Executive Committee Members TM Kaunda (Mayor and Chairperson: Municipal Business Leave) and OB Mvubu (Indisposed Leave).
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1. REPORT OF THE FINANCE COMMITTEE: MEETING HELD 2023-09-20.

(Page R5)

1.1 Progress Report on Minimum Competency Levels as at July 2023 (6/2/3/1):  
(Page 285: Finance Committee - Agenda 2023-09-20)

Certain Senior Municipal Officials are required to undergo the Municipal Finance Management Training registered by the South African Qualifications Authority and be validated by National Treasury. This report then serves to present progress and status of the minimum competencies to be attained by the designated Municipal officials as prescribed by Section 168 of the Local Government: Municipal Finance Management Act No.56 of 2003.

As per the statutory requirements, the progress report presented herein would also be submitted to the National and the Provincial Treasury, it being recorded that the compliance requirement is the completion of the relevant modules at 100% by the officials concerned. Progress report thereon is detailed in the table contained in the recommendation below, and this being noted accordingly,

**COMMITTEE RECOMMENDS:**

That Council note progress made by the eThekweni Municipality officials designated to achieve Municipal Minimum Competency levels, as per Regulations set out in terms of Section 168 of the Local Government: Municipal Finance Management Act No. 56 of 2003, be noted as recorded in the table below:

**Progress:**

<b>Category</b>	<b>Summary Report</b>
Accounting Officer	Compliant as per Regulation
Chief Financial Officer	Compliant as per Regulation
Senior Managers (MSA S56)	Compliant as per MFMP Unit Standards Regulation, of which 3 are awaiting SETA Certificate
3 Supply Chain Management	2 Compliant as per Regulation 1 completed 81% of modules; and 19% of modules in progress
2 Middle Manager: Finance	1 Compliant 1 Employee has joined the Minimum Competence Programme and will complete in terms of the Regulations.

**NOTED.**

1.2 Budget Statement Report for the Month Ending: 31 August 2023 (7/1/4):  
(Page 287: Finance Committee - Agenda 2023-09-20)

The attention of the Committee was drawn to the salient features of the report relative to the actual operating revenue of 103% of the year-to-date budget, with a variance of 3%. The actual operating expenditure reported as a percentage of year-to-date budget figure is 91% with a variance of -9%. The reported capital expenditure is 55% of the budget with a variance of -45%. The capital year to date spent is reported at 4.6%. A cash collection rate of 100.72 % was reported as higher when compared to the same period in the previous year (93.21%), this was greatly applauded.

The Committee unanimously stressed the importance to intensify debt collection strategies to recover monies owed to the Municipality by customers including Parastals and Government Departments. It being noted that in terms of Municipal debtors, the bulk thereof relates to household debt which includes individual/ residential customer accounts. It being further noted vigorous enhancement and implementation of the Credit Control Policy was ongoing with a focus being on customers that owe the Municipality from the value of R100 000-00 (One Hundred Thousand Rand) and going down to R10 000-00 (Ten Thousand Rand). That in addition to this, other engagements between the Municipality, Parastals, including Transnet and Government Departments were still underway to recover monies owed. On the other hand, unread meters for prolonged period were viewed as a major challenge for the Municipality in terms of customers being in receipt of inaccurate bills, mention being made that the Municipality had to ensure that meters were being read on a monthly basis.

In an endeavour to address water challenges, information was given that Councillors have been allocated plumbers to assist with leaks in their respective Wards. The Municipality was applauded for spending 100% on its Urban Settlement Development Grant allocation and thereby leading on this spending when compared to all other Metropolitans in the Country. It was further recalled that the Municipality had received funding for April 2022 storm water damages with conditions that the projects should be completed within twelve (12) months. However, with funding having been received three (03) months prior to the end of the financial year, an agreement was reached with the National Government that the implementation will cut across two (02) financial years,

it being confirmed that the Municipality now has a deadline of March 2024 to complete the floods damages projects. Confirmation also being given that the procurement processes have been completed for the majority of the projects and that these are now at the implementation stage, therefore expenditure patterns for this grant allocation will also be noticeable going forward. Therefore, indication being given that the Municipality was performing well and stable in terms of its financial affairs.

Deliberating on this report at the Executive Committee level, further information was provided as per the enquiries made, explanation being given that while the capital budget spend is currently sitting at 45%, it was advised that the spend was dependent on the supply chain management processes. Confirmation being given that a plan is in place to track the SCM processes for each capital project to be undertaken and that there are processes completed already and it being anticipated that the capital budget spend will improve in the second quarter of the current financial year.

On the issue raised pertaining to a legislative requirement to publicize Officials and Councillors who are repeat offenders in terms of the payment of Municipal fees, the attention of the meeting was drawn to the provisions in the Local Government: Municipal Systems Act No. 32 of 2000 regarding the process to be followed to handle deviations, and for Councillors, that the Schedule 7 provisions of this Act culminate in the submission of the report dealt with openly by the Municipal Council, it being recorded though that it was the prerogative of the Municipal Council to determine whether this report should be dealt with in an open or closed meeting, although the general approach followed by the Municipal Council involves open discussion of the report of this nature.

Thereafter, from the finance perspective, it was confirmed that information on Councillors in arrears for more than ninety (90) days is included to form part of the Annual Financial Statements incorporated in the Annual Report, as per the requirements in terms of Section 124 of the Local Government: Municipal Finance Management Act No. 56 of 2003.

Accordingly,

#### COMMITTEE RECOMMENDS:

- 1.2.1 That the Budget Statement report for the month ended 2023-08-31 and the supporting documents, submitted by the Acting City Manager as per his report dated 2023-09-15, in compliance with Section 71 of the Municipal Finance Management Act No. 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.
- 1.2.2 That in compliance with Section 32(2) of the Municipal Finance Management Act, Council notes that Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) incurred for the month of August 2023 as detailed in section 10 of the Budget Statement Report.

**The IFP in interrogating the matter spoke of the missed opportunity to increase revenue with there being no concrete measures to get Government Departments and Parastals settle amount owed for Municipal fees. That it appears stringent measures were biased towards enforcement directed at non-paying eThekweni residents rather than big entities owing as well. In this regard, the IFP indicated they are not noting this Report.**

**Speaking on various aspects of the Report, the DA pointed out that an increase in debt and loan borrowings was still a growing concern. Unaccounted water due to there being no meter reading service was considered concerning, with a plea made to resuscitate the meter reading service to achieve proper accountability on water loss and implementation of targeted measures to address same and improve revenue generation. That loss of revenue was also experienced due to illegal electricity connection and cable theft which aspects were not being addressed thus not achieving sustainable solution.**

**Meanwhile, the ineffectiveness of the Municipal Call Centres was regarded representing a great disservice to the local communities. Lastly, the DA reiterated the Municipality's weaknesses in its repairs and maintenance function, and prolonged matter of Tansnat, with a litigation process not reaching finality for the outcome thereof to determine a way forward with regard to settling the debt owed the Municipality.**

**Thereafter, the above recommendations of the Executive Committee were, **NOTED** and it being recorded that the IFP abstained from noting the recommendations.**

1.3 Public Tender Awards of eThekweni Municipality for the Month Ended: 31 August 2023 (9/1/3):  
(Page 453: Finance Committee - Agenda 2023-09-20)

The Committee noted that the amount of R76 911 199.27 (Seventy-Six Million Nine Hundred and Eleven Thousand One Hundred and Ninety-Nine Twenty-Seven Cent) was the total value of tenders issued during the month of August 2023.

Accordingly,

COMMITTEE RECOMMENDS:

- 1.3.1 That the public tender awards by the City for the month of August 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 2023-09-08, be noted.
- 1.3.2 That it be noted that where information is available for Wards and registration numbers, it is included in the report, as information used to compile the report is taken from submissions made by the Units.
- 1.3.3 That the Finance Committee calls for additional information on individual awards, where it deems appropriate and necessary to play its oversight role.
- 1.3.4 That the City Manager reserves the right to investigate the awards with a view to taking disciplinary, criminal and recovery actions where willful and negligent violation of Supply Chain Management Policies and Municipal Finance Management Act provisions are observed.
- 1.3.5 That the City Manager shall table a report to the Committee relative to the disciplinary, criminal and recovery actions taken, it being recorded that the City Manager can only respond when the reports are available.



The DA reiterated the significance of confining the use of the Section 36 process of the Supply Chain Management Regulations to procurements of an emergency nature. That it appears some of the procurements made through this Section could not be justified.

Meanwhile, the ANC welcomed the report and commended the accountability displayed in reporting on the utilization of Municipal funds, it being emphasized that adherence has been made to the necessary compliance requirements in implementing Section 36, as per the provisions of the relevant legislation. Hence, the process has been instrumental in supporting the Municipality to fastrack service delivery pending the finalization of the normal public tender process where applicable.

The recommendations of the Executive Committee were thereafter, **NOTED.**

1.4 Investment Report for the Month Ended 31 August 2023 (7/11/4):  
(Page 577: Finance Committee - Agenda 2023-09-20)

The Committee noted the Municipal funds invested in different financial institutions amount R9 449 884 000.00 (Nine Billion Four Hundred and Forty-Nine Million Eight Hundred and Eighty-Four Thousand Rand), at an average rate of return on investments of 9.10%. Also, that the Municipality has an overdraft facility of R682 000 000.00 (Six Hundred and Eight Two Million Rand). That the un-utilized Capital and Operational Grants as at end August 2023 is reported to be R3 030 000 000 000.00 (Three Billion and Thirty Million Rand). It being further noted that there was 51 (fifty-one) days cash on hand excluding grants.

Accordingly,

COMMITTEE RECOMMENDS:

That the report on the investments of the eThekweni Municipality as at 2023-08-31, as invested in financial institutions record total funds in the amount of R9 449 884 000.00 (Nine Billion Four Hundred and Forty Nine Million Eight Hundred and Eighty Four Thousand Rand), at an average rate of return on investments of 9.10%, as submitted by the City Manager, in line with the requirements of the Municipal Cash Management and Investment Regulations of the Local Government: Municipal Finance Management Act No. 56 of 2003, be noted.

**NOTED.**

2. REPORT OF THE SECURITY & EMERGENCY SERVICES COMMITTEE: MEETING HELD 2023-09-21.

(Page R13)

2.1 Progress Report on Implementation of the National Integrated Safer Cities Programme in eThekweni Municipality (11/1/3):  
(Page 16: Security & Emergency Services Committee -Agenda 2023-09-21)

The Committee received the progress report relative to the implementation of the National Integrated Safer Cities Programme within eThekweni Municipality. The report further sought authority to merge the National Safer Cities Programmes with the Justice Crime and Prevention Security Cluster in view of identification of overlapping deliveries.

The National Integrated Safer Cities Programme was established on 28 May 2020 after the Workshop hosted by the Minister of Police with the South African Police Service Provincial Head office in KwaZulu-Natal. During this Workshop, the National Safer City Model and the Project Plan were discussed at length. This was subsequently followed by visit to the eThekweni Municipality Disaster Management Centre where a presentation was made in respect of the current intelligent technology rolled out by the Municipality in keeping with the Safer City Concept.

A recommendation was thereafter made by the Deputy Minister of Police that the eThekweni Municipality should be the first City in South Africa to pilot the Safer City Model in view of its advanced infrastructure, the long-term established relationship with UN-HABITAT (African Forum for Urban Safety) and the good co-operation between the Metro Police and the South African Police Services.

Subsequently, the Safer City Steering Committee chaired by His Worship the Mayor, Councillor Kaunda, was established. This Steering Committee was tasked with the responsibility of ensuring that the deliverables of the National Safer Cities Programme are implemented, and that proper accountability is maintained. Furthermore, the National Safer Cities Programme is aligned to the District Development Model which is linked to the Cabinet Resolution made in August 2019. The said Cabinet Resolution sought to address silos and lack of coherent planning and implementation processes in all government spheres. Through this alignment, the Integrated Safer Cities stakeholders have developed Integrated Project and Implementation Plans monitored as per the Monitoring Evaluation Tool developed.

The key objectives of the Safer Cities Programme are as follows:

- (a) To reduce levels of crime and violence
- (b) To improve feeling of safety by residents
- (c) To increase economic growth and tourism
- (d) To establish Safer Cities Governance Model
- (e) To build relevant capacity and innovation
- (f) To establish Integrated and Innovative Technological Infrastructure which includes Smart Policing to augment efficiencies of law enforcement

The progress on the implementation of the programme is at 62% as reflected in the table below:

<b>ITEM</b>	<b>ACTIVITY</b>	<b>STATUS</b>
Terms of Reference	Developed and submitted for approval by the relevant authorities on 14 July 2020	Finalised and signed
Project Plan	Developed and presented to the Steering Committee on 16 July 2020	Finalised and signed
Project Leadership	The Project Leaders briefed by the Technical Committee on 25 July 2020	Finalised
Council Resolution	The report submitted to the Finance, Security & Emergency Services Committee on 17 September 2020	Adopted by Council
Monitoring Tool	The Monitoring & Evaluation Team established on 28 July 2020	Monthly Reporting

ITEM	ACTIVITY	STATUS
Project Launch	The Integrated Safer Cities Programme launched on 20 November 2020 at Inanda and through other virtual venues	Completed
Fusion Centre Launch	The Fusion Centre established and launched on 20 November 2020	Completed
Assessment of TETRA Roll-Out	An assessment of the roll-out of TETRA within the Municipality and the use of the technology was conducted.	Completed
Standard Operating Procedure for the Fusion Centre	The Standard Operating Procedure for the Fusion Centre developed and completed in March 2021	In the process of obtaining signatures
Memorandum of Understanding for the Programme	An all-encompassing Memorandum of Understanding was drafted	Finalised and signed
Closed Circuit Television (CCTV) linked to South African National Roads Agency (SANRAL)	The CCTV linked to SANRAL established in August 2021	Completed
Upgrade of the 10111 Centre at the Durban Central Police Station	An upgrade of the 10111 Centre at the Durban Central Police Station was completed on 31 October 2021	Completed
Revitalization Workshop	The Revitalization Workshop aimed at reviving the project workstreams and its reconstruction held on 01 December 2022	Completed

**The Committee further noted the following activities:**

ITEM	ACTIVITY	FREQUENCY
Steering Committee Meeting	Meetings are convened and chaired by His Worship the Mayor, Councillor TM Kaunda and deliverables owners expected to account on their activities	Once quarterly
Technical Committee Meeting	To prepare for the main Steering Committee meeting and monitor activities on the action log:  To unblock challenges To monitor and ensure that deliverables and activities are implemented within set timeframes	Once weekly
Technology Workstream	To align technology for the eThekweni Municipality with the South African Police Service, South African National Roads Agenda and the Department of Transport	Once monthly

<b>ITEM</b>	<b>ACTIVITY</b>	<b>FREQUENCY</b>
Social Crime Prevention and Urban Safety Workstream	Meeting with stakeholders within the Justice Crime Prevention Security Cluster and Area Based Management in order to co-ordinate social crime prevention initiatives	Once monthly
Operational Workstream	To align operations within the hotspots of the eThekweni District	Once weekly
Communications Workstream	To draw and implement the Communication Plan	Once monthly
Body Worn Cameras Sub-Committee Workstream	Members to utilize body worn cameras for trial period  National Prosecuting Authority adopted the Standard Operating Procedure for utilization for court purposes  Pilot Project concluded in April 2021	Once monthly

**Challenges and Interventions Thereon:**

<b>CHALLENGE</b>	<b>WHAT COULD BE DONE</b>
Resistance to change	Effective change management from early phases of the project
Inability to use new technology	Intensive staff training Partnerships with tech savvy and non-tech savvy team members
Limited resource availability for technology development and implementation	Fast track stakeholder participation Commissioning of safety lab and the development of the Standard Operating Procedures
Opposing views to the usage of technology – Civilians versus Peace Officer’s views, technology as a social versus crime combatting tool	Technology must have restricted access to protect crime intelligence, knowledge sharing to explain to the users  Include the Technology Workstream as an operational tool within the District Development Model Operations and the Law Enforcement Workstream
Lack of co-operation from all stakeholder to have a common/integrated smart public safety platform/approach	More robust discussions required within the National Integrated Safer Cities Programme
Red tape/lengthy application processes that are hampering progress	Streamlining of processes and potential business processes re-engineering to facilitate more efficient processes

Linking this programme with the District Development Model (DDM), the Committee was informed that the DDM is the new integrated model piloted for co-operative governance for the following purpose:

- Be district-based and focus on the service delivery approach
- Aimed at fastracking service delivery and ensure that Municipalities are adequately supported with resources to carry out their mandate
- Intended to alleviate disjointed planning, budgeting and implementation across the different spheres and entities of government to programmatically address persistent socio-economic challenges of poverty, inequality, under-development and unemployment.

The Committee further noted that the DDM constitutes four Government Clusters and one of the structures pertained to Justice, Crime Prevention and Security (JCPS). The JCPS is required to convene meetings on a monthly basis with a view to co-ordinating activities.

With the Committee being in support of the integration proposed, it was

**COMMITTEE RECOMMENDS:**

- 2.1.1 That progress made to implement the National Integrated Safer Cities Programme within the eThekweni Municipality in the past three (03) financial years, be noted as outlined in the tables contained in the preamble above.
- 2.1.2 That the activities linked to the National Integrated Safer Cities Programme and mainstreamed to the current work activities, be approved.
- 2.1.3 That approval be granted to merge the activities of the National Integrated Safer Cities Programme with those of the District Development Model (DDM) and Justice, Crime Prevention and Security (JCPS) Cluster.

**Financial Implications:**

All activities have been mainstreamed into the functions carried out by the Units involved. This is particularly relevant for activities that will be ongoing. As a result, no additional funding request is made and none expected either going forward since the approach will remain the same.

**The IFP welcomed the report, commending co-operation by law enforcement agencies in ensuring that safety issues are given the priority it deserved. That this programme would assist strengthening the tourism sector and subsequently an improved economic growth.**

**The NFP also welcomed the report, an indication given that the programme would further assist to address long outstanding issues related to crime prevention. On the same note, the merging of this programme with the DDM model was applauded with this to ensure all spheres of government are working as a collective on areas of mutual interest.**

**Also commenting, the ACDP stated that when the Safer Cities Unit was established, one of its core functions was to ensure that communities are provided with the required security. However, that what is being experienced on the ground is continuous increase in crime and thus emphasizing that the Security and Emergency Services Committee should be more visible on its activities especially those impacting local communities.**

**Joining the debate and in welcoming the report, the Action SA expressed that it would have been appreciated if the report also reflect approach to deal with illegal immigrants and border control. This being said against the view that criminal syndicates are evident in some parts of the City.**

**With a recommendation made that the Municipality should consider establishing a committee comprising the Department of Home Affairs; Border Management stakeholders; SAPS; as well as Metro Police, to deal decisively with issues of illegal immigrants.**

**The ANC welcomed the report and extending appreciation to Parties that initiated this programme and leading it until this progressive stage. The fight against crime was considered broad and not to be solely the responsibility of the SAPS given that some of the eventualities are exacerbated by societal problems prevailing in communities. This approach of aligning the National Safer Cities Programme with the DDM was considered fruitful multi-disciplinary approach to tap into varied expertise to combat crime in its various facets. In response to the issues raised by the ActionSA, confirmation was given the DDM model intends achieving the collaborations recommended.**

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

3. REPORT OF THE ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE:  
MEETING HELD 2023-09-21.

(Page R19)

3.1 Request for Authority to Transfer Point Promenade Land from the Durban Point Development Company to the eThekweni Municipality (20/1/3/1):

(Page 1: Economic Development and Planning Committee - Agenda 2023-09-21)

Authority is sought to transfer the Point promenade land from the Durban Point Development Company (DPDC) to the eThekweni Municipality and to note status and challenges related to the Point Precinct.

The Point promenade was constructed by the DPDC, acting as the implementing agent on behalf of the eThekweni Municipality. The land on which the promenade is built is part of the DPDC property and needs to be transferred to the eThekweni Municipality for operation and maintenance by the Municipality. The promenade falls within the beach zone, and not the Special Zone 24 Point Waterfront. The property was sub-divided to create Portion 138 of Erf 12524 Durban and currently the Real Estate is in the process to transfer the promenade to the Municipality, as detailed in Annexure 3 of the City Manger's report dated 2023.

The DPDC is proposing a sum of R101 235 000.00 (One Hundred and One Million Two Hundred and Thirty-Five Thousand Rand) be offset against the rates owed by the DPDC, in transferring the promenade to the Municipality. The attention is drawn to the fact that the land transfer agreement adopted Council in 2015 did not specify that the land transfer will be at no cost to the Municipality. However, the Beach subdivision and rezoning was agreed.

In view of the foregoing,

**COMMITTEE RECOMMENDS:**

- 3.1.1 That Council notes background on the construction of the Point Promenade by the Durban Point Development Company (DPDC), acting as the implementing agent on behalf of the eThekweni Municipality, and the intention to now officially transfer the Promenade to the Municipality, it being noted that the Promenade is located on the DPDC owned property.

- 3.1.2 That the transfer of the Point promenade land from the DPDC to the eThekweni Municipality at a nominal amount of R100.00 (One Hundred Rand), be approved, with authority being granted for the Head: Real Estate to accept and enter into a transfer agreement with the DPDC regarding the land described as Portion 138 of Erf 12524 Durban, in extent 4,0494 hectares, as depicted on Plan SG1012/2021.
- 3.1.3 That in the event of negotiations for the Point Promenade land to be transferred at a nominal amount being unsuccessful, authority be granted for the Head: Real Estate to proceed with expropriation of the property described as Portion 138 of Erf 12524 Durban in extent 4,0494 hectares as depicted on Plan SG1012/2021.
- 3.1.4 That, subject to the adoption of .1 - .3 above, authority be granted for the Head: Real Estate to conclude the appropriate agreement and sign all necessary documents to effect transfer and registration in favour of the eThekweni Municipality.

**ADOPTED.**

- 3.2 Declaration of KwaZulu-Natal Greater Urban Spatial Transformation and Economic Transition as the Region, in Terms of the Spatial Planning & Land Use Management Act 16 of 2013 (21/5/1):  
(Page 46: Economic Development and Planning Committee - Agenda 2023-09-21)

Authority is sought to solicit support to declare the KwaZulu-Natal Greater Urban Spatial Transformation and Economic Transition as the Region, in terms of the Spatial Planning and Land Use Management Act No. 16 of 2013 (SPLUMA). The declaration of Economic Transition Region will facilitate economic, social, environmentally integrated and resilient sustainable development, as well as growth for the eThekweni Municipality in fulfilment of Plan 1 of the eThekweni Municipality Integrated Development Plan.

The KwaZulu-Natal Province has developed a number of Corridor Plans in the last ten (10) years. However, many of these are not formally adopted or fully implemented by the Provincial Government in the absence of being formally legislated.

The promulgation of SPLUMA in 2012 introduced legal requirements for Spatial Development Plans for all three (3) spheres of government, and also introduced new type of legally recognized Spatial Plan – Regional Spatial Development Framework (RSDF). The Spatial Development Frameworks are discretionary plans. The RSDF does not replace or stitch together existing SDFs, however, it must improve alignment and co-ordination on key agreed regional focus areas and issues.

The National Spatial Development Framework and the Provincial Development Framework both identified the area around eThekweni and the uMgungundlovu District, along the N3, as critical Urban core region for the province and the country. It is a fast-growing area due to the key cities attracting growing population seeking employment and due to the N3 road connection from the major port through to Southern Africa. It is also an area that falls within critical water catchment requiring careful management of fast-growing development to avoid disaster and loss of biodiversity.

The proposed regional focus will be on:

- (a) Management of the spread of benefits from economic developments as spin offs from the logistics road corridor;

- (b) Management of human settlement and inward migration towards ensuring spatial transformation and inclusion; and
- (c) Management of the biodiversity and water sensitivities in the Umngeni catchment.

It is envisaged that the following institutional arrangement, aligned to the District Development Model (DDM) Inter-Governmental Relations approach, will be put in place for monitoring and accountability:

**i) Regional Technical Forum:**

To oversee preparations and implementation of Regional Spatial Development (RSD), capacity building and engaging relevant DDM Technical Structures.

**ii) Regional Political Forum:**

To give political and strategic guidance, unblock challenges and provide mediation where necessary and make recommendations to DDM structures and respective Municipal Councils.

**iii) Workstreams:**

To be established as required, including Planning Workstream; Projects Implementation Workstream; Communication, etc.

Having noted the foregoing,

**COMMITTEE RECOMMENDS:**

- 3.2.1 That the declaration of the KwaZulu-Natal Greater Urban Spatial Transformation and Economic Transition as the Region, in terms of the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA), be supported.
- 3.2.2 That authority be granted for the Acting City Manager: Economic Development and Planning to co-ordinate the Municipality's participation in the Inter-Governmental Relations (IGR) structure that will be established to co-ordinate planning and implementation of the agreed Regional Plan.
- 3.2.3 That progress reports be submitted to the Economic Development and Planning Committee for the duration of the initiate.

**ADOPTED.**

- 3.3 Application in terms of Section 46 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: North Sub-Scheme: Section 7: Development Facilitation Table: Medium Density Residential 7: Additional Controls (21/7/R):  
(Page 50: Economic Development and Planning Committee - Agenda 2023-09-21)

Authority is sought for the approval for amendment of the eThekweni Municipal Land Use Scheme: North Sub-Scheme: Section 7: Development Facilitation Table: Medium Density Residential 7: Additional Controls by adding:

**Condition 3.**

*Portion 3 (of 2) of Erf 3434 Umhlanga Rocks - "The permissible height shall be capped at 149.370 metres above mean sea level (roof apex) (Block A) to a maximum of 6 storeys in accordance with plan 17031SK-100-05", situated at 2 Idwala Crescent, Umhlanga Rocks.*



Portion 3 (of 2) of Erf 3434 Umhlanga Rocks is situated on Herrwood Drive, at the northern end of Umhlanga Ridge. The site is bound by Idwala Crescent and Wager Avenue and is located adjacent to the radar station located on the highest point at the end of Herald Drive.

The site is currently zoned Medium Density Residential 7 and is not developed. The proposal is to develop two additional residential floors, that is 6 storeys instead of 4 storeys, over a small footprint of about 5% of the area of the site, with the additional height located where development of this portion of the site is very awkward site and most difficult.

The intention is therefore that not the entire site is developed to 6 storeys, but only approximately 5% of the overall site and the additional height be accommodated by way of amendment to the current zone, by utilising the Additional Control Section of the Development Facilitation Table for the Medium Density Residential 7 Zone. In this way, there is clear control of and section of the site with increased storeys as it is linked to a specific plan, referred to in the additional control.

This application proposes only a “rearrangement” of the already allowable height in metres and proposes no increase in the overall height of the building measured in metres, hence the proposed wording of the new clause to limit height to 149.370MSL.

With the Democratic Alliance (09), voting against the recommendations and AL-JAMAH (01), IFP (01), ACDP (01) abstaining, and the ANC (15), EFF (02) and Action SA (01), the recommendation was supported by the majority vote at the Support Committee level.

The DA (03) maintained its dissenting vote at the Executive Committee level. With the ANC (3); IFP (01) and the NFP (01), being in support,

#### COMMITTEE RECOMMENDS:

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: North Sub-Scheme: Section 7: Development Facilitation Table: Medium Density Residential 7 Zone be adopted for the following reasons:

1. The site is very irregular shaped, therefore the proposed increase in storeys will not result in any significant detriment to the amenities of the area and that the increased storeys still maintain the overall built form of 4 storeys and is deemed to be reasonable having regard to the topography and the uniqueness of the site.
2. The proposed Additional Control in the Development Facilitation Table is capped to a specific built height above mean sea level and linked to a plan, ensuring control over the proposal and compliance.
3. The objections received has been taken into consideration, however the Department is of the opinion that the issues raised have been considered and adequately responded to in the planning evaluation and that the merits of the proposal are sound from a planning perspective.

The eThekweni Municipal Land Use Scheme: North Sub-Scheme: Section 7: Development Facilitation Table: Medium Density Residential 7 Zone will be amended to include the following Additional Control numbered as follows:

3. Portion 3 (of 2) of Erf 3434 Umhlanga Rocks – “The permissible height shall be capped at 149.370 metres above mean sea level (roof apex)(Block A) to a maximum of 6 storeys in accordance with plan 17031SK – 100-05”, situated at 2 Idwala Crescent, Umhlanga Rocks.

The eThekweni Municipal Land Use Scheme: North Sub-Scheme will be amended to reflect the following amended Development Facilitation Table:

		ZONE: MEDIUM DENSITY RESIDENTIAL 7					
<b>SCHEME INTENTION:</b> To provide, preserve, use land or buildings for higher density of residential accommodation, ancillary uses which service the day to day needs of a residential community that is not detrimental to the residential amenity of this zone.							
<b>MAP REFERENCE:</b> NS / 05 / 2012			<b>COLOUR NOTATION:</b> Rose quartz with 'MRD7' inserted				
PRIMARY		SPECIAL CONSENT		PRECLUDED			
<ul style="list-style-type: none"> <li>• Conservation Area</li> <li>• Dwelling House</li> <li>• Laundry</li> <li>• <b>Multiple Unit Development*</b></li> </ul>		<ul style="list-style-type: none"> <li>• Boarding House</li> <li>• Chalet Development</li> <li>• Mobile Home Park &amp; Camping Ground</li> <li>• Private Open Space</li> <li>• Retirement Centre</li> <li>• Special Building</li> <li>• Telecommunications Infrastructure</li> </ul>		<ul style="list-style-type: none"> <li>• Action Sports Bar</li> <li>• Adult Premises</li> <li>• Agricultural Activity</li> <li>• Agricultural Land</li> <li>• Airport</li> <li>• Arts and Crafts Workshop</li> <li>• Betting Depot</li> <li>• Builder's Yard</li> <li>• Car Wash</li> <li>• Cemetery / Crematorium</li> <li>• Container Depot</li> <li>• Convention Centre</li> <li>• Correctional Facility</li> <li>• Crèche</li> <li>• Direct Access Service Centre</li> <li>• Display Area</li> <li>• Educational Establishment</li> <li>• Escort Agency</li> <li>• Flea Market</li> <li>• Flat</li> <li>• Fuelling and Service Station</li> <li>• Funeral Parlour</li> <li>• Garden Nursery</li> <li>• Government / Municipal</li> <li>• Health &amp; Beauty Clinic</li> <li>• Health Studio</li> <li>• Hotel</li> <li>• Industry - Extractive</li> <li>• Industry – General</li> <li>• Industry – Light</li> </ul>		<ul style="list-style-type: none"> <li>• Industry – Noxious</li> <li>• Institution</li> <li>• Landfill</li> <li>• Mortuary</li> <li>• Motor Garage</li> <li>• Motor Display Area</li> <li>• Motor Vehicle Test Centre</li> <li>• Motor Workshop</li> <li>• Museum</li> <li>• Nature Reserve</li> <li>• Night Club</li> <li>• Office</li> <li>• Office – Medical</li> <li>• Parkade</li> <li>• Pet Grooming Parlour</li> <li>• Place of Public Entertainment</li> <li>• Place of Public of Worship</li> <li>• Recycling Centre</li> <li>• Reform School</li> <li>• Refuse Disposal</li> <li>• Restaurant / Fast Food Outlet</li> <li>• Riding Stables</li> <li>• Scrap Yard</li> <li>• Shop</li> <li>• Student Residence</li> <li>• Transport Depot</li> <li>• Transport Use</li> <li>• Truck Stop</li> <li>• Veterinary Clinic</li> <li>• Warehouse</li> <li>• Zoological Garden</li> </ul>	
ADDITIONAL CONTROLS							
<ol style="list-style-type: none"> <li>1. All landscaping to the satisfaction of the Municipality.</li> <li>2. Density shall be limited to 50 Dwelling Units per hectare.</li> <li>3. <b>Portion 3 (of 2) of Erf 3434 Umhlanga Rocks- “The permissible height shall be capped at 149.370 metres above mean sea level (roof apex) (Block A) to a maximum of 6 storeys in accordance with plan 17031SK-100-05.”</b></li> </ol>							
DEVELOPMENT PARAMETERS							
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM SUB-DIVISION	HEIGHT	COVERAGE	FLOOR AREA RATIO	
BUILDING LINE	SIDE & REAR SPACE						

		ZONE: MEDIUM DENSITY RESIDENTIAL 7				
7.5 m	3.0 m	50	4 000 m <sup>2</sup>	4	40 %	1.0

The DA expressed reservations about setting the precedence by approving this report as it was recommending that 6 storeys be constructed in a 4-storeys zone. It was noted that in future, the Municipality would not be able to disallow similar applications should a development of this nature is requested elsewhere in the City. Indication was also given that if the developer requires more units, same could be achieved by reducing the size of the units and further considering making same with low ceiling. Furthermore, changing building regulations for one unit was not ideal.

On the contrary, the ANC indicated that it would not be the first time for the Municipality to grant approval of this nature. Reference was made to the fact that the topography of the site in question was sloppy. It was further mentioned that additional controls are to be effected in relation to this development. Additionally, the attention was drawn to the fact that the National Building Regulations would not be breached by allowing additional storeys. The ANC confirmed that the approval was only specific to the site in question, with the proposed approval being welcomed and contributing to investment promotion and an ultimate increase in the City revenue base.

As some Councillors were not in support of the recommendations, the matter was put to the vote. With 168 Councillors present, 86 Councillors (ANC-80, ABC-01, APF-01, ATM-01, KZNI-01, NFP-01 and UIM-01) voted in support of the recommendations, 53 Councillors (DA-52 and VF PLUS-01) voted against the recommendations and 29 Councillors (IFP-14, Action SA-03, ACC-02, ACDP-02, AIC-01, DLC-01, AL JAMAH-01, MF-01, MOSA-01, PFP-01, PRM-01 and TA-01) abstained.

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

3.4 Combined Application in Terms of the eThekweni Municipality: Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021): Application to Amend Special Zone 26 of the Central Sub Scheme (Broadway Precinct): 47, 49,51 & 53 Adelaide Tambo Drive and 8 & 12A Swapo Road: by the Following:

- a) By Removing the Erf 1902 from Land Use Component 2: Residential Office Conversion and Redevelopment and Adding it to Land Use Component 1: Commercial
- b) By Deleting the Following Cadastral Description from Land Use Component 1: Erven 1890, 1891, Rem of 1892, 1893 – 1896, 1898, 1899 Durban North and 1902 Durban North from Land Use Component 2: Residential Office Conversion Finally Replacing the Deleted Erf Description with Erf 3794 Durban North Within Land Use Component 1: Commercial
- c) By Amending the Development Facilitation Table for Land Use Component 1: Commercial: Erf 3794 Durban North: Coverage 80% (21/7/2):  
(Page 78: Economic Development and Planning Committee - Supplementary Agenda 2023-09-21)

Authority is sought to approve 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). The two components include scheme amendments (Category 1) and removal of restrictive conditions/consolidation (Category 3), however, only the Category 1 component is presented before Committee as Council is the decision maker in this regard. The remaining components of the consolidation and removal of restrictive conditions have been supported by JAC but are dependent of this Category 1 application being approved.

- a) By removing the Erf 1902 from land use component 2: Residential Office Conversion and Redevelopment and adding it to land use component 1: Commercial;
- a) By deleting the following cadastral descriptions from land use component 1: erven 1890, 1891, rem of 1892, 1893 – 1896, 1898, 1899 Durban North and 1902 Durban North from land use component 2: residential office conversion finally replacing the deleted erf descriptions with erf 3794 Durban North within land use component 1: Commercial
- c) By amending the Development Facilitation Table for Land Use Component 1: Commercial: Erf 3794 Durban North: Coverage 80%

The application has been submitted by John Forbes Associates, on behalf of the registered owner Menoc Properties (Pty) Ltd - Reg. No 1996/011501/07 of Erven 1890-1896, 1898, 1899 & 1902 Durban North located at 47, 49, 51 & 53 Adelaide Tambo Drive and 8 & 12A Swapo Road, to amend the eThekweni Municipal Land Use Scheme: Central Sub-Scheme by amending Special Zone 26 (Broadway Precinct) Land Use Component 1 together with consolidating the various sites into one property and removing historic conditions within the title deed.

The application focuses on Kensington Square which is a mall within the Broadway Precinct in Durban North. The application site was historically made up of a number of smaller erven, which erven were notarially tied together. Notarial tie is an option to consolidation and this application seeks to consolidate the previously notarially tied portions. In consolidating the sites, it was realised by the Developer that majority of the sites enjoyed the planning provision of being commercial, and hence the construction of the Mall. However, it was discovered that a single portion of the site did not enjoy the same provisions. Hence, this application seeks to correct that by amending the scheme to allocate that site to the correct land use provision. Lastly, the Scheme needs to be amended to reflect the coverage as 80% as the Developer seeks to upgrade the existing Mall.

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

Having noted that the proposed amendment is appropriate and meets the development principles as set out in in the current planning legislation, promotes efficient and sustainable economic development and use of infrastructure,

**COMMITTEE RECOMMENDS:**

That in terms of Section 46(1)(a) of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) the application for the amendment to the eThekweni Municipal Land Use Scheme: Central Sub-Scheme, Section 7: Development Facilitation Table by the Amending Special Zone 26 by:

- a) By removing the Erf 1902 from land use component 2: Residential Office Conversion and Redevelopment and adding it to land use component 1: Commercial;
- b) By deleting the following cadastral descriptions from land use component 1: erven 1890, 1891, rem of 1892, 1893 – 1896, 1898, 1899 Durban North and 1902 Durban North from land use component 2: residential office conversion finally replacing the deleted erf descriptions with erf 3794 Durban North within land use component 1: Commercial and
- c) By amending the Development Facilitation Table for Land Use Component 1: Commercial: Erf 3794 Durban North : Coverage 80%

Resulting in the following changes to the Development Facilitation Table of Special Zone 26:

SPECIAL ZONE 26: BROADWAY PRECINCT		
<p><b>SCHEME INTENTION:</b> To provide, preserve, use land or buildings for a limited mix of land-uses, as listed below. The purpose of this zone is to promote and manage residential, business and office uses in close proximity to or integrated with each other within the Broadway Precinct to reinforce its status as a neighbourhood shopping and convenience node.</p>		
<p><b>MAP COLOUR REFERENCE:</b> Black cross hatch with zone number</p>		<p><b>MAP REFERENCE:</b></p>
<p>1. This special zone shall apply to the following properties:- Erven 1791-1798, 1826-1827, 1830-1831, 1834-1845, 1848-1849, 1879-1904, 1917-1926, 1929-1943, 1973, 1976-1991, 1994-1995, 1998, 2020-2021, 2023-2028, 2030-2031, all of Durban North.</p> <p>2. The Broadway Precinct drawing hereunder forms an integral component of the Zone and indicates the broad land use treatment thereof.</p> <p>This special zone comprises 3 land use components, i.e. Commercial, Residential Office Conversion and Redevelopment, Residential Office Conservation.</p>		
<p><b>2.1 Land Use Component 1: Commercial</b></p> <p><b>Erven</b> : 1793, 1884-1885, 1887- 1889, 3764, 1926, 1929-1937, 1939, 3794 all of Durban North.</p> <p><b>Intention</b> : A retail and office area which may comprise a mix of residential, retail, offices, restaurants and by Special Consent entertainment uses.</p>		
PRIMARY	SPECIAL CONSENT	PRECLUDED
<ul style="list-style-type: none"> <li>• *Flat</li> <li>• *Shops</li> <li>• Car Wash</li> <li>• Health &amp; Beauty Clinic</li> <li>• Health Studio</li> <li>• Office</li> <li>• Office - Medical</li> <li>• Pet Grooming Parlour</li> <li>• Restaurant/ Fast Food Outlet</li> </ul>	<ul style="list-style-type: none"> <li>• Action Sports Bar</li> <li>• Place of Public Entertainment</li> <li>• Education Establishment</li> <li>• Fuelling and Service Station</li> <li>• Flea Market</li> <li>• Night Club</li> <li>• Special Building</li> <li>• Student Residence</li> <li>• Telecommunication Infrastructure</li> <li>• Any other use authorised in terms of Section 9.4</li> </ul>	<ul style="list-style-type: none"> <li>• All other uses</li> </ul>
ADDITIONAL CONTROLS		
<ol style="list-style-type: none"> <li>1. *The controls in accordance with that applicable to a Limited Commercial Zone shall apply.</li> <li>2. A three storey height may be permitted on a sloping site by Special Consent</li> <li>3. The Commercial Component of Erf 1793 Durban North will be limited to a maximum 140m<sup>2</sup> retail floor space and 600m<sup>2</sup> storage/warehouse</li> <li>4. Erf 3794 Durban North shall have a maximum coverage of 80%</li> </ol>		
DEVELOPMENT PARAMETERS		

SPECIAL ZONE 26: BROADWAY PRECINCT						
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM SUBDIVISION	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA
BUILDING LINE	SIDE AND REAR SPACE					
3.0m	Nil	N/A	450	2	50% See Additional Controls	N/A
<b>3.2 Land Use Component 2: Residential Office Conversion and Redevelopment</b> <b>Erven</b> : 1794,1834, 1835, 1839 to1841, 1881, 1886, 1897, 1919, 1925, 1938, 1940, 1980 to 1982, 1986 and 1987, 2026 all of Durban North. . <b>Intention</b> : A residential area where offices may be permitted through the conversion of existing buildings or through redevelopment provided that neighbourhood amenity is not materially impacted on.						
PRIMARY		SPECIAL CONSENT			PRECLUDED	
<ul style="list-style-type: none"> <li>Dwelling House</li> <li>Multiple Development</li> <li>Office</li> <li>Office - Medical</li> </ul>		<ul style="list-style-type: none"> <li>Crèche</li> <li>Health &amp; Beauty Clinic</li> <li>Educational Establishment</li> <li>Institution</li> <li>Place of Public Worship</li> <li>Special Building</li> <li>Telecommunication Infrastructure</li> </ul>			<b>All other uses</b>	
ADDITIONAL CONTROLS						
3.2.1 Floor Area Ratio: where a dwelling unit is to be converted or redeveloped for suburban office purposes, then the floor area ratio for office purposes shall not exceed 0.5 to 1. 3.2.2 On sloping ground, 3 storeys shall be permitted, provided that such building at no point exceeds more than 2 storeys in a vertical line. 3.2.3 Signage, Hoarding and Advertising shall be in accordance with sub-section 1.20 of this scheme. 3.2.4 Parking shall be provided on-site at the ratio of one bay per 25m <sup>2</sup> of offices and in the case of any other use, parking shall be provided in terms of section 8. of this scheme. Such parking shall be screened and constructed of pervious material to the satisfaction of the Head: EThekweni Transport Authority. 3.2.5 All properties converted or redeveloped for office use within this component shall be landscaped to the satisfaction of the Municipality.						
DEVELOPMENT PARAMETERS						
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM SUBDIVISION (m <sup>2</sup> )	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA
BUILDING LINE	SIDE SPACE REAR SPACE					
7.5m	2m	One dwelling house for every 900m <sup>2</sup>	900	2 (see 3.2.2 above)	40%	0.8 (see 3.2.1 above)

**ADOPTED.**

3.5 Request for the City Manager to Enter into a Memorandum of General Agreement and Memorandum of Particular Agreement with Government Technical Advisory Centre for Energy Infrastructure Projects (27/1/2/R):  
(Page 101: Economic Development and Planning Committee - 2<sup>nd</sup> Supplementary Agenda 2023-09-21)

Authority is sought for the City Manager to enter into a Memorandum of Particular Agreement (MOPA) with National Treasury via the Government Technical Advisory Centre (GTAC). With the role of Government Technical Advisory Centre (GTAC) to be outlined

in respect of eThekweni's Municipal Independent Power Producer Procurement Programme (MIPPPP) and support services in relation to Public Private Partnerships (PPPs) for Municipal energy infrastructure projects.

The GTAC and the eThekweni Metropolitan Municipality ("EMM") concluded a Memorandum of General Agreement (MOGA) on 2019-03-26. The MOGA seeks to promote coherent management of Public Private Partnerships (PPPs) infrastructure projects in line with Municipal PPP Regulations, for a period of five (5) years, thus expiring on 2024-03-26. Whereas the MOPA seeks to implement project agreement with agreed MOPA Terms of Reference, project timeline and procurement of Transaction Advisors as per Annexure A of the City Manager's report dated 2023-08-21.

It will be recalled that the Municipal Council at its meeting held in July 2021 adopted the Energy Transition Policy, which committed to reduce reliance on the national grid by 20% in the 2025/2026. The National Treasury, on 2023-03-15, approved eThekweni's intention to procure new generation capacity through Treasury Views and Recommendations (TVR I) in terms of Section 120 of the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2003 and the Municipal Public Private Partnership Regulations.

The GTAC is an entity of National Treasury with a legislative mandate to provide advisory services, programme management and development finance to improve public financial management, support high-impact government initiatives, create jobs and strengthen infrastructure planning and delivery.

Therefore, the GTAC will manage the procurement of Transaction Advisors on behalf of EMM, to design a transparent, fair, and competitive procurement process that is supported by relevant legal documentation such as Section 34 Approval, Bankable Feasibility Study (BFS), Deal Structure, Request for Qualification (RFQ), Request for Proposal (RFPs, Public Private Partnerships (PPP), the Power Purchase Agreement (PPA), and Implementation Agreement (IA).

Project Roles and Responsibilities are outlined as follows:

- (i) The Legal Advisory Team will be responsible for developing legal agreements such as RFQs, RFPs, PPAs, IAs, Grid connection agreement, radical Economic transformation Plan agreements and alignment with Municipal Supply Chain Management Policy.
- (ii) The Technical Advisory Team will be responsible for strategically assessing the available grid capacity for integration of new generation capacity, strengthening of the network supply in different areas, technical input into the procurement documentation, and grid code compliance.
- (iii) The Financial Advisory Team will be responsible for ensuring that Municipality is not placed under vulnerable financial position, provide high-level financial modelling, ensure Municipal bankability and support from Treasury contingency liabilities ("guarantees").
- (iv) The Economic Development Team will be responsible for achieving economic imperatives, radical economic transformation, particularly for black people, increase localization, industrialization, employment, skills development and BBE compliance indicators.

- (v) The Environmental Advisory Team will be responsible for ensuring applicability of the environmental laws, prepare EIAs, obtain all environmental approvals, land assessment, stakeholder engagement working with EMM and appointed IPP Company.

Having noted the foregoing,

**COMMITTEE RECOMMENDS:**

- 3.5.1 That authority be granted for the City Manager to review the existing Memorandum of General Agreement (MOGA) with a sole purpose of extending it by a further five (5) years and enter into a Memorandum of Particular Agreement (MOPA) with the National Treasury via its entity, the Government Technical Advisory Centre (GTAC), to ensure efficient procurement and management of energy infrastructure projects.
- 3.5.2 That Council notes the role of GTAC will be to obtain Treasury Views and Recommendation (TVR IIA) before the Request for Qualification (RFQ) and Request for Proposal (RFP) are released to the market before the end of Calendar year (2023).
- 3.5.3 That the latest development with regards to possible strategic unbundling of 400 MW due to land constraints into 4 contracts namely, Fuel (gas) supply contract, 300 MW of Gas to power (GTP) contract, 50 MW of Solar PV contract in the North and 50 MW Solar PV contract in the South, be noted.

**MOTION TO AMEND**

**In terms of Rule 20 (4) of the Rules of Order By-Law, Councillor J Naidoo, seconded by Councillor J Annipen, moved as a procedural motion to amend the above recommendations of the Executive Committee to read:**

*“That subject to the approval of 3.5.2 above, consideration would be given to critical infrastructure and to include essential services key points in Eskom direct Wards, namely, Wards 99, 98, 105 and 109”.*

**NOT CARRIED**

**Given divergent views in relation to the proposed amendment, the IFP was afforded opportunity to speak on the matter.**

**Accordingly, the IFP expressed that whilst noting that the eThekweni’s Municipal Independent Power Producer Procurement Programme seeks to procure alternative energy generation sources to integrate into the network supply thereby reducing unstableness of the grid, attention should be given to the Wards covering the areas of Umgababa, Imfume Umnini, Felekisi, Craigieburn and Thoyane directly powered by Eskom.**

**The Wards referred to in the preceding paragraph were reported to be hamstrung with essential services of water and electricity because of continuous loadshedding implemented by Eskom. That water pumpstations and wastewater pumps were also loadshedded for up to twelve hours during stage 6 while other eThekweni Wards were being loadshedded for lesser hours.**



**That this loadshedding compromises the supply of water to communities hence the proposal to include the said Wards in the programme.**

**As some Councillors were not in support of the Motion to Amend, the matter was put to the vote. With 176 Councillors present, 80 Councillors (DA-52, IFP-14, Action SA-03, ACC-02, ACDP-02, DLC-01, AL JAMAH-01, MF-01, MOSA-01, TA-01, UIM-01 and VF PLUS-01) voted in favour of the amendment, 94 Councillors (ANC-88, ABC-01, APF-01, ATM-01, KZNI-01, NFP-01 and PFP-01) voted against the Motion to Amend. 2 Councillors (AIC-01 and PRM-01) abstained.**

**The abovementioned Motion to Amend the recommendations was, by the majority vote, NOT CARRIED.**

**Speaking on the substantive matter, the IFP expressed that whilst in support of the recommendations, but the exclusion of the Wards cited is concerning.**

**The ANC then welcomed the report pointing out that robust discussion was required to concentrate ideas on implementation of collective approach to address energy crisis. Affirmation was given that loadshedding is not merely an inconvenience, but also affect revenue generation and the economy at large, with companies losing production and in some instances job losses.**

**Members were reminded of the Council-adopted Energy Transition Policy in July 2021. The Policy is aimed at providing a pathway towards a portfolio mix of power sources that could be deployed on a medium- and long-term basis. The Policy further encourages regional competitiveness, energy security and creating resilience infrastructure system, as well as industrialization. In terms of the commitments made by the City, an indication was given that a commitment was made to reduce resilience on the national grid by at least 20% in the 2025/2026 financial year and by 40% in the 2030/2031 financial with the intention to finally achieve 100%.**

**Mention was made that due diligence exercise has been concluded successfully. The support received from domestic and international investors was welcomed. The RFI was reported to be the biggest achievement in the history of energy sector in South Africa and that over one hundred (100) proposals were received thus demonstrating investor confidence in eThekweni Municipality. This was further supported by various approvals from National and Provincial Government Departments, it being noted that this was achieved by utilizing in-house capacity. It was reported that pledges received from various investors during the Energy Transformation Summit held March 2023 are currently undergoing due diligence process and progress report would be presented to Council.**

**Mention was also made of partial Ministerial determination concluded in line with Section 34 of the Electricity Regulation Act. That the release of the construction tender is in the pipeline and set to create close to 8000 job opportunities during the construction phase, and with the construction itself to inject R10 billion in private investments and mitigate against Stage 3 loadshedding within eThekweni. Given the progress made thus far, the ANC expressed its support of the recommendations.**

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

*(At this stage of the proceedings, the attention of the Speaker was drawn to note the absence of the EFF from the meeting. It being mentioned that when the meeting commenced 07 EFF Councillors were present and others were confirmed to be in the process of joining. The Speaker then tasked the Administration to follow the matter up to confirm status of the EFF attendance in this meeting)*

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3.6 Request for Authority to Enter Into Strategic Partnership for Implementation of Skills Development Partnership Programme in New Venture Creation Business Management Level 4 (66249) (6/R):  
(Page 501: Economic Development and Planning Committee - 3<sup>rd</sup> Supplementary Agenda 2023-09-21)

Authority is sought to enter into a strategic partnership with Asime Women Non-Profit Company (NPC) in terms of section 67 of the Local Government: Municipal Finance Management Act of 2003 for the implementation of the Skills Development Programme in New Venture Creation (NVC) Business Management Level 4 (66249) within the eThekweni Municipality for a period of twelve (12) months.

It will be recalled that the Municipal Council at its meeting held 2023-06-15 adopted the request to enter into a strategic partnership with Food and Beverages Manufacturing Sector Education and Training Authority (FoodBev SETA) and receive funding to implement New Venture Creation (NVC) Learnership in Business Management Skills during the 2023/2024 financial year.

The proposed partnership New Venture Creation (NVC) Business Management Skills Development Partnership Programme seeks to support employment for one hundred (100) women and youth in the primary food production and processing for a period of twelve months. This partnership will also establish sustainable relations with food markets and introduce farmers into other market segments.

The Asime Women NPC has experience in providing NVC Business Management learnership and enterprise post-training support programmes. The Company is also bringing in stakeholders that will jointly provide market access and skills to fifty (50) participants, value of Enterprise Aftercare Programme is R875 000.00 (Eight Hundred and Seventy-Five Thousand Rand). Food and Beverages Sectoral Education and Training Authority (FoodBev SETA) has allocated funding in the amount of R6 235 000.00 (Six Million Two Hundred and Thirty-Five Thousand Rand) into the Skills Development Partnership programme where R5.8 million will be spent towards Training and Development of one hundred (100) learners.

Having noted that this project is in line with the IDP Plan 2 objective which is “Economic Growth and Job Creation” therefore it will go a long way in addressing the strategic plans of the Municipality,

**COMMITTEE RECOMMENDS:**

3.6.1 That authority be granted for the City Manager to, in terms of Section 67 of the Local Government: Municipal Finance Management Act 2003, enter into a partnership agreement with Asime Women Non-Profit Company, for the implementation of the Skills Development Partnership Programme New Venture Creation in Business Management for a period of twelve (12) months.

3.6.2 That subject to approval of .1 above, Council approves the disbursement of funding to the Asime Women Non-Profit Company for the implementation of the Skills Development Partnership Programme.

FoodBev SETA has allocated a budget amount of R6 235 000.00 for this partnership programme as per Annexure B of the report by the City Manager dated 2023-08-25.

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
			Project Consumables		R 435 000

**The ACDP welcomed the report as this would assist in developing skills for the youth taking into consideration high unemployment rate within the country, including the City of eThekweni.**

**Also, in support of this initiative, the ANC expressed appreciation to the FoodBev SETA for allocating an amount of R6 235 000.00 towards this programme. The Asime Women Non-Profit Company was also acknowledged for being in the forefront in terms of providing the required skills.**

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

4. REPORT OF THE HUMAN SETTLEMENTS AND INFRASTRUCTURE COMMITTEE: MEETING HELD 2023-09-22.

(Page R13)

4.1 Request for Approval of Proposed Alienation of Erf 1925 KwaMashu C Section for Worship Purposes (17/2/1/2/3):

(Page 17: Human Settlements and Infrastructure Committee - Agenda 2023-09-22)

The Committee considered the report relating to proposed alienation of the KwaMashu C Section Erf 1925 for worship purposes, and the intention to transfer non-exempted capital asset for less than its fair market value, in terms of Regulation 13(2) of the Municipal Assets Transfer Regulations.

With there being no objection to the proposed alienation,

COMMITTEE RECOMMENDS:

4.1.1 That Council declares in terms of Regulation 5 (1)(b), Regulation 7 and Regulation 11 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 that:

4.1.1.1 The property described as Erf 1925 Kwa-Mashu-C in extent of 1169m<sup>2</sup> as depicted on Plan No.: SJ 4833/2 is not required to provide the minimum level of basic Municipal services and

4.1.1.2 The market value of the property is currently assessed at a value of R360 000.00 (Three Hundred and Sixty Thousand Rand), excluding VAT.

- 4.1.2 That the Council approves the proposed alienation of Erf 1925 Kwa-Mashu-C for worship purposes to the applicant, subject to:
- 4.1.2.1 The public space is to be formally closed and rezoned for worship purposes; and
- 4.1.2.2 The existing buildings will either need to be formalized with a relaxation applicant or demolished.
- 4.1.3 That traffic impact assessment may be required prior to any development on site based on the number of congregants attending the church. Access details and parking will be assessed at site development stage
- 4.1.4 That the sale price will be discounted by 90% of the fair market value having duly considered the principles as set out in Regulation 13(2) MATR, the discounted value is determined to be R36 000.00 (Thirty-Six Thousand Rand), excluding VAT.
- 4.1.5 That a reversionary clause be registered in the title deed of the property stating that the property can only be utilized for worship purposes and for ancillary thereto and no other purpose whatsoever.
- 4.1.6 That all costs incidental to the transaction shall be at the cost of the purchaser including rezoning.
- 4.1.7 That a public notice be issued to afford the community affected an opportunity to comment or object to the proposed alienation of the property by direct negotiations to the applicant prior to transfer.
- 4.1.8 That subject to the adoption of .1 to .7 above, authority be granted to the Head: Real Estate to sign all the documents necessary to give effect to this transaction in terms of the Municipality's Supply Chain Management Policy and any other applicable legislation. The Head Real Estate to further consider and impose such conditions necessary to protect the Municipality's interest.

**In welcoming the report, the IFP emphasized that the Municipality should continue accelerating such initiatives and to making parcels of land available for religious purposes. The religious institutions were regarded as vital in the campaign relative to moral regeneration, social cohesion, and nation building. Concern was thereafter raised that these initiatives were not carried out in a fair and equitable manner in view of some religious organisations continuing to utilize rented spaces. Council was reminded that during the Mayor's State of the City Address, a promise was made that Faith-Based Organisations would be offered opportunity to purchase land at 10% of its value. A plea was then made that this initiative should be all-inclusive to achieve equity in this regard.**

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

- 4.2 Request for Budget Allocation to Address Scavenging Crisis in eThekweni Landfill Sites:  
(Page 58: Human Settlements and Infrastructure Committee - Agenda 2023-09-22)

A need exists to allocate budget to cater for emergency work packages required to bring Buffelsdraai Landfill site back into operation. The site in question was vandalized by Scavengers in July 2023 and as a result, it was closed and unable to operate as the waste

disposal facility. The Municipality was unable to intervene at that stage as the area was declared a crime scene. In responding to a query raised regarding the insurance cover for the site, it was advised that the assets for the site were covered as well as the technical aspects. The Insurer was then to conduct own assessment and thereafter a determination of the way forward in this regard. With the site being closed, this is impacting on service delivery, but in August 2023 the site was partially opened.

Insofar as the process for the waste picker integration, it was advised that the Municipality is exploring partnerships with Private Sector and that the limitation regarding the Organizational Structure of Cleansing and Solid Waste Unit is hindering progress as it was not geared for the work at hand and the transformation of waste management sector. In addition, it was reported that the Human Capital had indicated that the request involves a major amendment to the organogram and therefore Council will not be able to provide guidance on this matter at this stage. Regarding condemned food, it was advised that such has been diverted and that engagements have been undertaken with the City Health as the custodian of this matter.

The Committee then undertook to conduct site inspection as part of oversight and be able to manage this matter from an informed premise. As such, it was agreed that this item should remain a standing matter on the Committee Agenda thereby receiving regular updates from the Cleansing & Solid Waste Unit.

With regard to allocating funds for the emergency work packages, some members were not in support thereof at the Support Committee level. Accordingly, with 25 Councillors present, 11 Councillors (ANC – 11, EFF – 3, IFP – 2, KZN1 – 1) voted in support of the recommendations and 9 – DA Councillors voted against the recommendations.

At the Executive Committee level recommendation 5.2.1 was amended to clarify that the budget required will be sourced through identification of savings in the 2023-24 financial year budget.

Thereafter, the DA (03) maintained its dissenting vote on this matter; and with the ANC (03); IFP (01) and the NFP (01) being in support, by the majority vote,

#### COMMITTEE RECOMMENDS:

- 4.2.1 That approval be granted for the provision of all emergency work packages required to bring the Buffelsdraai Landfill Site back into operation, and to provide for safety measures during the operations, coupled with the approval of the capital budget in the amount of R80 400 000.00 (Eighty Million Four Hundred Thousand Rand) and the operating budget in the amount of R24 500 000.00 (Twenty-Four Million Five Hundred Thousand Rand), subject to savings being identified by the Deputy City Manager: Finance.
- 4.2.2 That a Joint Security and Enforcement Operations Plan be developed for all Cleansing and Solid Waste Landfill Sites to protect against scavenging.
- 4.2.3 That an alternative plan to provide economic solutions to accommodate the salvagers/scavengers be developed by the Municipality.

**The DA expressed that consideration of this report was long overdue noting that it was presented four months later after illegal vandalism in Buffelsdraai landfill site. This indicating that no work in this site since the vandalism.**

Reference was made to the commitment made by the Mayor to accelerate the process of addressing challenges, including waste pickers being recognized as part of stakeholders. That robust discussion on the compliance issues that led to vandalism is required. The Municipality was therefore seen to have failed to manage the Buffelsdraai landfill site as well as other sites. The fencing of the sites, including transportation of waste to the facilities was considered not properly done and that this be addressed accordingly. Further, the collapse of Recycling and the Orange Bag Recycling Programme was highlighted. In view of challenges and compliance issues not being addressed timeously, the DA indicated its dissenting position on this matter.

Joining the debate, the ActionSA advised that the recycling projects had proven to contribute positively in job creation given prevailing high unemployment rate amongst the youth in particular. However, that the recommendations presented before the Council does not seem to address the challenge alluded to. The ActionSA also presented its dissenting position in this regard.

Speaking on this matter, the ANC gave assurance of its firm commitment to restore the functioning of the Buffelsdraai landfill site. Mention being made that the insurance process is underway with regard to claims that could be successful to secure relevant infrastructure. Meanwhile, that granting of approval to secure funds internally would help accelerate the restoration process thus preventing closure of the site which approach is not favourable.

As some Councillors were not in support of the recommendations, the matter was put to the vote. With 175 Councillors present, 96 Councillors (ANC-88, ABC-01, AIC-01, DLC-01, ATM-01, AL JAMAHA-01, KZNI-01, NFP-01 and PRM-01) voted in support of the recommendations, 63 Councillors (DA-52, ActionSA-03, ACC-02, ACDP-02, MOSA-01, PFP-01, TA-01 and UIM-01) voted against the recommendations and 16 Councillors (IFP-14, MF-01 and VF PLUS-01) abstained.

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

4.3 Request for Authority to Acquire Land and Register Servitude for Project No. 8612: Northdale Pumpstation and Rising Main Replacement (23/2/1/3/3/1):  
(Page 210: Human Settlements and Infrastructure Committee - Agenda 2023-09-22)

Authority is sought for the Real Estate Unit to acquire land and register servitude for the property described as Remainder of Sub 1 of Lot No. 1531 Erf 6859, Tongaat Ext 44 and Portion 5 of Erf 467, Tongaat Ext 44 from the private owner via donation; private treaty; or expropriation if necessary, for Project No. Y6812, Northdale Pumpstation and Rising Main replacement. The land acquisition is required for proposed new pumpstation located alongside the existing pumpstation for the area of approximately 500m<sup>2</sup>. The sewage rising main servitude required is detailed in the table below:

INFRASTRUCTURE	Width of Servitude Required	PIPE LENGTH	PIPE DIAMETER	LOCATION
Sewage Rising main	6m	510m	160mm Ø HDPE	Ward 62

With the Committee being in support of the proposal,

COMMITTEE RECOMMENDS:

- 4.3.1 That authority be granted for the Head: Real Estate to acquire land and sewer servitude within the properties described as Remainder of Sub 1 of Lot No 1531 Erf 6859 Tongaat Ext 44 and Portion 5 of Erf 467 Tongaat Ext 44 from the private owner via donation; private treaty; or expropriation, if necessary, and this to follow the appropriate procurement processes, as described by the relevant legislation, including the Municipal Supply Chain Management Policy where applicable, be approved.
- 4.3.2 That in the event expropriation is deemed necessary, authority be granted for the Head: Real Estate to proceed with the purchase of land and the expropriation of the sewer servitude over Remainder of Sub 1 of Lot 86 No 1531, Erf 6859 Tongaat Ext 44 and Portion 5 of Erf 467 Tongaat Ext 44.
- 4.3.3 That subject to the adoption of .2 above, authority be granted for the Head: Real Estate to assess compensation in terms of Section 25(3) of the Constitution of the Republic of South Africa, No 108 of 1996, read in conjunction with the Expropriation of Land Act No. 63 of 1975, as the proposed acquisition is in the public interest and/or for public purposes and such acquisition is deemed compulsory.
- 4.3.4 That subject to the adoption of .3 above, authority be granted for the Head: Real Estate to conclude the appropriate agreement and sign all necessary documents to effect the transfer, donation or expropriation and registration, in favour of the eThekweni Municipality.

**Financial Implication:**

Project No.: Y8612; (R920 000.00, including VAT (Provided in the capital budget 2023/2024 financial year).  
FC No.: 365/C392

**ADOPTED.**

- 4.4 Request for Authority to Renew Implementation Protocol for Level 2 Accreditation for Undertaking the Housing Function (22/1):  
(Page 216: Human Settlements and Infrastructure Committee - Agenda 2023-09-22)

The eThekweni Municipality enters into a 3-year Implementation Protocol agreement with the KwaZulu-Natal Provincial Government to enable the Municipality to undertake the housing function. The agreement which has in place has expired in April 2023, and a need exists to enter into and sign new agreement.

The 3-year protocol agreement is renewable upon the Municipality having displayed capacity to implement programs accredited in terms of the agreement. The table below reflects financial implications pertaining to the Implementation Protocol:

Year	Project Management	Property Management	Planning	Total	ISUP	Capacity Building
2023/2024	R376 710 041.00	R79.500 000	R4 550 000	R460 760 041	R177 557 920	R14 172 000
2024/2025	R435 726 378.00	R98 350 000	R10 400 850	R 98 350 000	R7 000 000	R14 172 000
2025/2026	R423 555 743.00	R81 991 622.56	R49 900 850	R81 991 672.56	R1 500 000	R14 172 000
<b>TOTAL OPERATIONAL COST PAYABLE</b>						<b>R42 616 000</b>

In terms of the agreement, the Municipality is required to report monthly, quarterly, and annually regarding the performance and progress of the Human Settlements programs and projects undertaken by the Municipality. The reporting will focus on financial and subsidy data in order to comply with the National Department of Human Settlements financial requirements; DORA requirement. Reporting will include financial and non-financial information.

As per the request, monthly progress reports on the Implementation Protocol will be submitted to the Human and Settlements Committee. Thereafter, with the Committee being in support of the proposal,

**COMMITTEE RECOMMENDS:**

- 4.4.1 That authority be granted for the Head: Human Settlements to renew the Implementation Protocol for the Level 2 Accreditation to be entered into and signed between the eThekweni Municipality and the KwaZulu-Natal Provincial Department of Human Settlements to enable the eThekweni Municipality to undertake the housing function for a period of three (03) years upon the signing of the agreement.
- 4.4.2 That subject to .1 above, His Worship the Mayor of eThekweni Municipality, Councillor TM Kaunda be mandated to, on behalf of the eThekweni Municipality, signs the Implementation Protocol with the Provincial Department of Human Settlements.

**ADOPTED.**

- 4.5 Noting of Intention to Amend Contract IT-34776, in Terms of Section 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, for the Construction of BRT Route C1A Work Package 3 Inanda Arterial Between N2 and Seacow Lake Road (26/3/1/1):  
(Page 240 : Human Settlements and Infrastructure Committee - Agenda 2023-09-22)

The Executive Committee is requested to note the reasons detailed below, which give rationale for the intention to extend Contract IT-34776:

Suspension costs due to late/non-payment of Contractor:

- Soon after the award of Contract 1T-34776 to Messrs Group Five Pandev BRT WP3 JV, Group 5 went into business rescue (on 11 March 2019); this then negatively impacted the ability of Group Five to honour their JV agreement/contract towards Pandev and by extension the ability of the JV to honour their contractual commitment to the City.
- Pandev, the JV partner, approached the EThekweni Transport Authority (ETA) requesting permission for partial assignment of Contract 1T-34776 in favour of Steffanutti Stocks Roads & Earthworks and, such request was acceded to by the Employer's Agent on 5 June 2019.
- Whilst works on site went ahead (note contract commencement date of 01 February 2019) formalization of the partial assignment in terms of procurement prescripts and process took the better part of three (3) years to conclude, culminating in the need for a ratification of the Employer's Agent's decision by the Accounting Officer which happened on 09 March 2022 and subsequently noted by the Bid Adjudication Committee (BAC).
- The absence of formal BAC decision in respect of the partial assignment meant that it was not possible to settle invoices submitted by BRT WP3 JV on a monthly basis because such payment needed to be done through a regularization process on receipt of each payment certificate and completed prior to payment being effected.



- Due to more elaborate payment process, the Contractor’s invoices were settled on average two (2) to three (3) months after the due date; the Contractor responded by suspending works on site as soon as contractual provisions permitted. Along with such suspension came extension of time claims as the due completion date would have to be revised (indirect costs), as well as standing time claims (direct costs).
- The partial assignment was subsequently ratified by the City Manager and Noted by the BAC to normalize the contract.

Variation/Change Orders:

- As a result of technical, practical and stakeholder management challenges encountered on site during the execution of the works, fifteen (15) variation/change orders have had to be issued to the Contractor.
- Furthermore, the ETA was requested to assist the eThekweni Water and Sanitation Unit in responding to the April 2022 floods damages. In response to same, a variation order to the value of **R54 960 579,00 (Vat. incl.)** was approved through Section 55 of the Supply Chain Management Policy.

The estimated cost to complete contract 1T-34776 is R176 000 000.00 (One Hundred and Seventy-Six Million Rand), including VAT and escalation, the scope of works upon which this estimate is based consists of the following elements:

- (i) Construction of 460m long stretch of mixed-use traffic lanes between the Inanda Arterial-Palmfield/Elmfield intersection and the Inanda arterial-Teakfield/Willowfield intersection, including full layerworks up to the asphalt base and wearing course, drainage infrastructure and relocation of services.
- (ii) Completion of the layerworks (specifically the asphalt base and wearing course) between the Inanda Arterial-Peter Road and Inanda Arterial-Palmfield/Elmfield intersection.
- (iii) Re-alignment and protection of the Transnet pipeline in the vicinity of the Inanda Arterial-Peter Road intersection and subsequent completion of the Peter Road IRPTN station platform.
- (iv) Finalization of the widening of the 135m stretch of west bound mixed-use traffic lane adjacent to Gundle Plastics (Growth-Point) along Inanda Arterial Road.

Section	Part	Description	Total Estimate to Complete Works Incl Peter Road North
1	1200	GENERAL REQUIREMENTS AND PROVISIONS	R48,205,988.32
1	1300	CONTRACTOR'S ESTABLISHMENT & GENERAL	R26,797,358.55
1	1400	HOUSING, OFFICES AND LABORATORIES	R685,017.99
1	1800	VARIATIONS - DAYWORKS	R1,282,119.80
	<b>TOTALS</b>	<b>PRELIMINARIES AND GENERAL</b>	<b>R76,970,484.66</b>
2	1500	ACCOMMODATION OF TRAFFIC	R4,064,796.23
2	1700	CLEARING AND GRUBBING	R1,030,964.59
2	2100	DRAINS	R51,618.94
2	2200	PREFABRICATED CULVERTS	R3,835,807.07
2	2300	CONCRETE KERBING AND CHANNELLING	R3,992,813.00

Section	Part	Description	Total Estimate to Complete Works Incl Peter Road North
2	3300	MASS EARTHWORKS	R1,705,553.13
2	3400	PAVEMENT LAYERS OF GRAVEL MATERIAL	R4,843,858.00
2	4100	PRIME COAT	R244,006.17
2	4200	ASPHALT BASE AND SURFACING	R11,443,440.15
2	4800	TREATMENT OF AN EXISTING SURFACE	R -
2	5100	PROTECTION AGAINST EROSION	R1,197,930.00
2	5200	GABIONS	R94,539.78
2	5400	GUARDRAILS	R253,188.16
2	5600	ROAD SIGNS	R953,512.21
2	5700	ROAD MARKINGS	R1,033,653.18
2	5800	LANDSCAPING AND PLANTING PLANTS	R571,322.80
2	5900	FINISHING THE ROAD AND ROAD RESERVE	R66,976.71
2	8100	TESTING MATERIAL AND WORKMANSHIP	R53,500.00
	<b>TOTALS</b>	<b>ROADWAY</b>	<b>R35,437,480.12</b>
3	6200	FALSEWORK,	R324,068.00
	<b>TOTALS</b>	<b>STRUCTURES</b>	<b>R324,068.00</b>
			R -
4	ST03	CONCRETE, FORMWORK& REINFORCEMENT	R198,680.00
4	ST16	TICKET OFFICE	R964,729.89
4	ST17	GENERATOR ROOM	R74,017.92
4	UPS1	UPS INSTALLATION	R -
	<b>TOTALS</b>	<b>STATION PLATFORMS</b>	<b>R1,237,427.81</b>
	<b>TOTALS</b>		<b>R113,969,460.59</b>
	Contingency		R9,691,266.11
	Escalation		R29,382,751.56
			<b>R153,043,478.26</b>
	15% VAT		R22,956,521.74
			<b>R176,000,000.00</b>

The intention to amend the contract was advertised on 12 June 2023 and there were no objections received in this regard in terms of financial implications, the required budget to fund the proposed expansion of contract 1T-34776 will come from the PTNG Grant as described below:

2023/24 FY – R161 920 000-00

2024/25 FY – R14 080 000-00

Vote No.: P8529.55100.18000.51160.0000.P8529.R003

**FC No.: 2023/50/C020**

With the Committee being in support of the proposal,

COMMITTEE RECOMMENDS:

4.5.1 That Council notes the reasons to amend contract period of performance on Contract 1T-34776 for the construction of BRT Route C1A – Work Package 3 Inanda Arterial between N2 and Sea Cow Lake Road in terms of Section 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, by increasing the same from R457 458 813.65 (Four Hundred and Fifty Seven Million Four Hundred and Fifty Eight Thousand Eight Hundred and Thirteen Rand Sixty Five Cent), including VAT, to R176 000 000 (One Hundred and Seventy Six Million Rand), including VAT, and thus an additional allocation in the amount of R633 458 813.65 (Six Hundred and Thirty-Three Million Four Hundred and fifty-Eight Thousand Eight Hundred and Thirteen Rand Sixty-Five Cent), including VAT), to be split as follows:

- (i) Value of works: R113 969 460.59 (Excl VAT)
- (ii) Contingencies: R9 691 266.11 (Excl VAT)
- (iii) Escalation: R29 382 751.56 (Excl VAT)

4.5.2 That Council notes the public participation process advertised through the media, in terms of Section 116(3) of the MFMA, as part of achieving compliance requirements pertaining to the public participation process to invite public comments on the proposed contract amendment, and that there were no objections received in this regard.

**Financial Implication:**

- (a) That the required budget to fund the proposed expansion of contract 1T-34776 will come from the PTNG grant as follows:
- (b) 2023/2024 FY: R161 920 000.00
- (c) 2024/2025 FY: R14 080 000.00

Vote No: P8529.55100.18000.51160.0000. P8529.R003  
FC No.:2023/50/C020

**The ActionSA indicated that the IRPTN projects were not being finalized and the Council continues allocating budget. Concern was raised that even the Go! Durban projects, to date were still incomplete.**

**The ANC welcomed the report as it was going to allow the Municipality to continue constructing the required road infrastructure and spend on the budget allocated by the National Government.**

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

4.6 Noting Intention to Amend Contract 1T-679, in Terms of Section 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003 for Technical Advisory Services to Support Mini-Bus-Taxi Operators to Participate in the City's Integrated Public Transport Network and Other Programs (26/3/1/2):  
(Page 292: Human Settlements and Infrastructure Committee - Agenda 2023-09-22)

The Executive Committee is requested to note the reasons detailed below, which give rationale for the intention to extend Contract IT-679:

- During May 2021, the Municipality communicated its intention to resume with the negotiations with the relaxation of the Covid-19 gathering restrictions.

Notwithstanding the restrictions, the eThekweni Municipality was still expected by the National Department of Transport to operationalize the C3 Corridor.

- With the commencement of the negotiations in May 2021, it was resolved by all stakeholders that the operations along C3 should commence in October 2021 this meant all agreements needed to be signed and all fifteen (15) minibus taxi associations and four (4) bus operating companies needed to be engaged and consulted.
- The negotiations with the operators reached deadlock on the vehicle ownership, with the operators demanding that vehicle ownership had to be 100% by them through the VOC, or there would be no deal. The Municipality’s position was and has always been that of joint ownership shareholding at 51% for the Municipality and 49% for the operators.
- Vehicle ownership is one of the six principles that had already been negotiated at a city-wide level, and around which full or some agreement had already been reached as follows:
  - In order to facilitate the start of operations on the C3 Corridor, the Municipality could procure half of the ultimate fleet requirement, about 50 vehicles, including the spare fleet.
  - Once the operation was under way, the vehicle ownership principle would be revisited.

The six principles negotiated and agreed with the operators affected are listed below:

No.	Principle	Description
1.	The Eligibility of Operator Participation in the IPTN project	This principle determines the criteria by which operators and associations will be considered as affected operators
2.	The Compensation Formula in relation to Operating Permit/licence, business, and vehicles	This principle will determine the factors to be used to calculate the operator’s business value, reparations or share value and serves to guide how affected operators participate or exit the IPTN trunk and feeder routes
3.	Empowerment and Value Chain Opportunities	This principle will establish how eligible participants and their affected employees are provided with organizational capability and business capacity to meaningfully participate in value chain opportunities
4.	Training and Skills development Initiatives	The purpose is to ensure that the skills required for an effectively run IPTN are available. The process and approach will develop plans and supporting mechanisms that seek to address the skills and training gaps at various levels are required by the IPTN.
5.	Minimum Terms that would regulate the Service Contracts; and	The aim is to identify the service contracts and related performance levels needed to support an efficiently run IPTN operation
6.	Vehicle Ownership and Vehicle Operating Models	The aim is to agree on who will own and maintain the buses: City, VOC, private company, etc. Agree on a vehicle ownership (VOC) model: private VOC (fully owned by operators), or public (owned by the City, or mixed (owned by a Municipal Entity)

- The EMTC Investment Company Change Management Work plan envisaged that the Sub Project Executive Team, the Technical Teams, and the Affected Operator Engagement forum would be supported once a month, however with the fast tracing

of the negotiations, the negotiations structures were meeting at least once a week, resulting in a minimum number of four (4) engagements per month of the different structures with EMTC Investment Company supporting all three negotiations structures. The contract authority was used up at a faster rate than originally planned.

- Whilst at the outset it was anticipated that with the fast tracking of the program the operations on C3 would commence, this was not to be the case as the public transport operators and the city could not agree on the vehicle ownership principle in the implementation of the IPTN.

Continuation of services:

- While extensive work has been carried out to date, there is still a great deal that still needs to be done as per the scope of work and inception document submitted by the EMTC Investment Company, the below summary outlines further work that needs to be concluded by the EMTC Investment Company

Activity	Progress to date	Work that needs to be completed
Formation of Association based Companies	60% complete (60 of 112 associations)	The EMTC Investment Company needs to facilitate and coordinate the finalisation of the association-based companies and ensure that all companies have proper governance to enable them to contract with both government and the private sector in the provision of services.
Stakeholder Engagement in the Tactical Adjustment approach in the implementation of the City's IPTN	40% complete	The EMTC Investment Company to coordinate the broad engagements with all associations as well as the input and feedback to the City in anticipation of the final approval by Council
Data Collection and Planning	50% complete	The EMTC Investment Company has commenced with data collection of their current operations to identify gaps and where there are infrastructure requirements to support the operations.
Conflict Management	Ongoing	The EMTC Investment on an ongoing basis play a mediation role in the resolution of conflict, this has been extended to the involvement of community policing forums (CPFs).
Change Management	Ongoing	With the transitioning from informal to formal structure and the associated governance, the EMTC Investment Company has secured various business opportunities for the minibus taxi industry sector in eThekweni Region.
Capacity Building and Training	50% Complete	The EMTC Investment has concluded a skill gap assessment for the association-based companies as well as the Regional Companies as well as the policies that will be required. The EMTC Investment Company still needs to complete a training guideline and advise on the appropriate skills level for the managing of the Association Based Companies

**Subcontracting of Professional Services:**

- From time to time the EMTC Investment Company needs to subcontract professional services in the establishment of entities, negotiations of operating contracts and managing of public transport contracts as it does not make financial sense for the company to employ such resources on a full-time basis. These are the professional services envisaged:

Category of Technical Advisory Service	Key Activities	Key Deliverables
<p><b>1. Legal</b></p> <p>Legal advisory services in respect of the negotiated operating contract, the registration and establishment of operating companies</p>	<p>1.1. Provide Guidance to operators in the interpretation of the relevant legislation which includes at least the following: National Land Transport Act 5 of 2009, (NLTA), MFMA, PFMA, Labour Relations Act, Income Tax Act and Systems Act. Assist operator in understanding how best to comply with such legislation</p> <p>1.2. Provide Guidance to operators how the Public Transport Grants work</p> <p>1.3. Together with the change management advisors and Conflict Management advisor, assist the industry associations within the eThekweni Metro solidify their cohesion by generating appropriate agreements that bind them together in their participation in the industry transition process</p> <p>1.4. Provide legal assistance to the operators so that the operator can understand the legal ramifications of choices they wish to make</p> <p>1.5. Assist affected operators understand corporate structures, commercial contracts, service level agreements, shareholder agreements</p>	<p>i. Legally registered entity in terms of the Companies Act</p> <p>ii. Shareholders duly adopted shareholders agreement</p> <p>iii. Accepted and signed operating contracts f</p>
<p><b>2. Financial</b></p> <p>advising the industry of the financial implications of the operational contracts</p>	<p>2.1. Assist operators in understanding the financial ramifications of the Operations Plan, specifically the impact of different passenger demands on number of vehicles and impact on potential revenue and costs.</p> <p>2.2. Assist the affected operators by working with the Legal Advisor and City in developing the prospectus for the established entities.</p> <p>2.3. Development of Business Plans</p>	<p>i. Input into the agreement on the final rate per kilometre for the Operating Contract</p> <p>ii. Prepare reports on financial implications on:</p> <p>(a) Operating</p> <p>(b) Company/ies legal structure and shareholding</p> <p>(c) Operating contracts</p> <p>iii. Business plans</p>

Category of Technical Advisory Service	Key Activities	Key Deliverables
<b>3. Bus Operations</b>  Provide bus operations support in setting up the operating companies	3.1. Assist the industry in the inputs to costing in the bus contract.  3.2. Set up systems for bus scheduling and monitoring.	i. Agreement in the final km rate  ii. Operations SOPs for the companies  iii. Scheduling systems

- The EMTC Investment company will need to obtain prior approval from the eThekweni Transport Authority (ETA) before the subcontracting of any resources with a clearly defined work plan articulating the anticipated activities.
- The use of the professional services will be task based and its utilization will be limited to a particular task which will be in line with the scope of the EMTC Investment Company.

Project Engagement Allowance:

- Given that the operators need an extended amount of time in participating in meetings during the various meetings with the EMTC Investment Company and the City, a project engagement allowance is envisaged per meeting with the operators.
- It is only the meetings that are in line with the scope of work and the approved projects for contract 1T-679 that will be covered by the project engagement allowance. Should it be anticipated that the minimum number of engagements will be exceeded in a particular month, prior approval should be authorised by the City.

Variation in the scope of work:

Alternative approach to Implementation (Tactical Adjustment):

- The deadlock in the negotiations in October 2021 with the affected operators resulted in the EMTC Investment Company together with the eThekweni Transport Authority having to rethink the best approach to include affected operators whilst addressing the issues that led to the deadlock in the first instance.
- The Council Decision on Tactical Adjustment requires that among other stakeholders the Public Transport operators be consulted on the framework, however beyond that the EMTC Investment Company support is required to drive the change management processes associated with the revised approach to incorporating minibus taxi operators in the City's IPTN Program. The initial approach limited engagement to operators within the Phase 1 area, however with the tactical adjustment approach, all operators City wide have to be engaged.
- Change management support is required after the public participation process to manage the feedback process of the industry to inform how the tactical adjustment to implementation of the IPTN will incorporate the minibus taxi operators.
- It is anticipated that once the framework is approved, the EMTC Investment Company will manage the transition of participation of minibus taxi operators in a formalised subsidized environment.

Security Issues:

- The perceived adversarial relationships between government departments and minibus taxi owners and associations have complicated transitional and contract negotiations.

What further presents as a challenge for the City to engage the minibus taxi leadership when engaging the City on projects they are viewed as aligning with the City resulting in their security being compromised.

- Currently, there are five (5) Regions within the eThekweni Metro represented by 5 Chairpersons and Directors of the EMTC Investment Company. At the inception of the negotiations none of the Regional Chairpersons had security detail, however as negotiations progress 4 of the 5 Chairpersons had to have 24-hour security because of threats made to them.
- Given the above a prudent approach of dealing with the financial burden of the Directors of the EMTC Investment Company, who are also the Regional Chairs for paying for security as a result of being intrinsically involved in the successful implementation roll out of the IPTN Phases acting as the change management agents, it is proposed that the City should support the EMTC Investment Company in the security services by up to 50% of the cost, based on the rates that are currently used by the City's security management for an equivalent of the required level of security.

The estimated cost to complete contract 1T-679 is **R26 927 848.40** exclusive VAT & Escalation, the scope of works upon which this estimate is based on the following:

- (i) Provision of change management interventions to ensure the industry buys into the transition processes.
- (ii) Dispute Resolution and conflict management intervention to ensure that the associations, and members act in a unified manner.
- (iii) Administrative and co-ordination support for the minibus taxi operators in the Industry Transition process.
- (iv) Legal, financial and bus operations advisory services in respect of the negotiated operating contract, the registration and establishment of operating companies.
- (v) Advising the industry of the financial implications of the operational contracts and the compensation for the business value of the economic right

To ensure the following strategic objectives are achieved;

- (i) Transformation of public transport industry.
- (ii) Ensuring that the minibus taxi industry fosters collective working agreement.
- (iii) Resolves challenges at the negotiation table.
- (iv) Builds skill and capacity to deliver projects now and in the future.
- (v) Manages stakeholder both internally and externally to the industry; and
- (vi) Empowerment of operators individually and collectively

The above-mentioned services are to be rendered by EMTC to support the following projects:

- (i) GO Durban Tactical Adjustment in the implementation of the city's Integrated Public Transport Network.
- (ii) Business restructuring of all mini-bus taxi associations within eThekweni Metro.

Description	Value (all values are excluding VAT)
<b>Professional Service</b>	<b>R14,464,212.36</b>
• Legal	R6,500,000.00
• Finance	R4,200,000.00



<b>Description</b>	<b>Value (all values are excluding VAT)</b>
• Bus Operations	R3,764,212.36
<b>Change Management</b>	<b>R10,425,033.64</b>
• Business Restructuring	R4,050,033.64
• Conflict Management	R2,550,000.00
• Project Management	R3,825,000.00
<b>Security Services</b>	<b>R2,038,602.40</b>
<b>Sub-Total</b>	<b>R26,927,848.40</b>
<b>Contingency 10% (Professional Service and Change Management)</b>	<b>R2,488,924.60</b>
<b>TOTAL</b>	<b>R29,416,773.00</b>

In responding to the query raised regarding the financial implications, it was advised that the 50% security of Taxi industry and fund utilized were sourced from the PTMG and such had conditions. For the transition to take place, security measuring agent not against the conditions of the grant. Not only eThekweni Municipality taking into consideration the requirements of the grant conditions. Insofar as the contract authority, it was advised that such was R29 Million and the contract duration was for a period of 24 months. The provision made for 2022/2023 was cleared with financial certificate and the budget aligned accordingly. In addition, the contracts had been packaged and that tender process would be undertaken as soon as possible.

For the Committee to be kept posted of the developments on this matter, the Acting Head: ETA was requested to submit a report every two months. Thereafter, as some members were not in support of the recommendation, with 25 Councillors present, 16 Councillors (ANC – 11, EFF – 3, IFP – 2, KZN1 – 1) voted in support of the recommendations and 9 – DA Councillors voted against the recommendations. Therefore, by the majority vote,

**COMMITTEE RECOMMENDS:**

4.6.1

That Council notes the reasons to amend Contract IT-679 in terms of Section 116(3) of the Local Government : Municipal Finance Management Act (MFMA) No. 56 of 2003, for the Technical Advisory Services to support the Mini-Bus Taxi Operators in negotiations for the participation in the City’s Integrated Public Transport Network (IPTN) and other programs by increasing the same from R20 386 142.01 (Twenty Million Three Hundred and Eighty Six Thousand One Hundred and Forty Two Rand One Cent), excluding VAT, by an amount of R29 416 773.00 Twenty Nine Million Four Hundred and Sixteen Thousand Seven Hundred and Seventy Three Rand), excluding VAT, to R49 802 915.01 (Forty Nine Million Eight Hundred and Two Thousand Nine Hundred and Fifteen Rand One Cent), excluding VAT), by extending the same by a period of twenty four (24) months with effect from 01 April 2024 to 30 March 2026, this proposed increased in contract authority shall be split as follows:

Value of works: R26 927 848.40 (Excl. VAT)  
Contingencies: R2 488 924.60 (Excl. VAT)

4.6.2 That Council notes the public participation process advertised through the media, in terms of Section 116(3) of the MFMA, as part of achieving compliance requirements pertaining to the public participation process to invite public comments on the proposed contract amendment.

**Whilst acknowledging the report and progress made, the DA noted with concern that this work has since attracted huge costs, a view being expressed that this could have been avoided if stakeholders and the taxi industry were approached from the inception of the GO! Durban venture in 2013.**

**The ANC then confirmed its support of the recommendations to mover closer to concluding related projects.**

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

4.7 Request for Approval to Solicit Comments and Representations in Terms of Clause 33(1)(a) of the MFMA Relating to the Appointment of a Professional Services Provider for Contract No. PSC 2021/005: Provision of Multi-Disciplinary Engineering Consulting Services for the 10ml/d to 22.5ml/d Capacity Extension of the Tongaat Central Wastewater Treatment Works (72 Months Contract) (23/1/11/2/1/2):  
(Page 343: Human Settlements and Infrastructure Committee - Agenda 2023-09-22)

The Water and Sanitation Unit intends entering into a long-term 72-month contract in relation to the Tongaat Central Wastewater Treatment Works for the plant to be upgraded to achieve the following:

- (i) Increase the capacity of this wastewater treatment works from 10 MI/d to 22,5 MI/d to accommodate the short to medium term increase in sewage flows;
- (ii) Support the completion of developments within the catchment that have been stalled due to the current constraints at this facility, thereby increasing the revenue generation stream; and
- (iii) Facilitate job creation and economic development from proposed developments.

The Department will ensure that the budget requirements beyond the current 3year financial cycle will be accordingly catered for in the forward cycle.

With the Committee being in support of proposal,

**COMMITTEE RECOMMENDS:**

That the City Manager be mandated to act in accordance with Clause 33 (1) (a) of the Local Government: Municipal Finance Management Act o. 56 of 2003, to solicit comments and representations relating to the appointment of a professional services provider under Contract No. PSC 2021/005: Provision of Multi-Disciplinary Engineering Wastewater Treatment Works (72) month contract), the said contract having financial implications beyond three (3) financial years.

**Financial Implications:**

**Contract No. PSC 2021/005 will impose financial obligations on the Municipality over six (6) financial years, for which the anticipated expenditure is summarised in the table below.**

Financial Year	Financial Year	Anticipated Expenditure (excl. VAT)	Approved Budget as per 23-25 MTREF
1	2023/2024	R 6 000 000	R 10 000 000
2	2024/2025	R 13 000 000	R 13 000 000
3	2025/2026	R 8 000 000	R 8 000 000
4	2026/2027	R 8 000 000	R 0
5	2027/2028	R 4 500 000	R 0
6	2028/2029	R 4 562 500	R 0
		<b><u>R 44 062 500</u></b>	

**ADOPTED.**

4.8

Noting of Reasons to Amend Contract: 1H-21375 3 in Terms of Section 116(3) of the Local Government: Municipal Finance Management Act, No. 56 of 2003, for Lease of Premises: Shell House Building Situated at 221 Anton Lembede Street Durban (172/2/5/1):  
(Page 476: Human Settlements and Infrastructure Committee - Agenda 2023-09-22)

The Real Estate Unit intends amending contract entered into for the purpose of continuing using the Shell House building situated at 221 Anton Lembede Street to accommodate the eThekweni Municipality office accommodation. The Municipality currently leases 13 828m<sup>2</sup> office space, together with 42 single parking bays and 27 tandem parking bays.

The building is fully occupied by various Municipal departments. As the largest occupier, the Human Settlements Unit carries the budget and assumes the role of the head lessee in this building. The current lease will expire on 31 October 2023. In an attempt to secure Municipal offices, the Head: Real Estate advertised tender 1H-4085 on 18 March 2022. However, there were no responsive tenderers, and a non-award report was done and submitted to the Bid Evaluation Committee on 06 June 2022.

As a result of the tender not being awarded, the Head: Real Estate is seeking an extension of the lease in Shell House for a period of twelve months with an option to renew for 2 further periods of 12 months each. The extension will ensure that the Units continue working without any disruption to service delivery. The Head: Real Estate will be going out to tender again for the abovementioned units and their requirements.

It is kindly requested that permission be granted to amend the lease for the following reasons:

- i) The building is situated in a strategic location within close proximity to the Durban City Hall being 500m away and easily accessible to the public that has through the years come to be known as the building where Municipal services are rendered, especially, housing.
- ii) Different Municipal Units occupying the Shell House building have undertaken extensive renovations at a substantial cost to the Municipality, and the renovations undertaken include the following:
  - (a) **Human Settlements:**  
Partitioned floors to create offices, boardrooms and kitchen. Installed CCTV cameras, telephones, network/power points and access control system.

- (b) **EThekweni Municipal Academy:**  
Partitioned floors to creates training rooms, offices, boardrooms, staff lounge. Installed CCTV cameras, telephones, network points and access control system.
- (c) **EThekweni Municipal Audit and Risk Services:**  
Partitioned floors to creates offices, boardrooms, and a kitchen. Installed CCTV cameras, telephones, network points and access control system
- (d) **eThekweni Municipality Human Resources:**  
Partitioned floors to create offices, boardrooms, and kitchen. Installed CCTV cameras, telephones, network points and access control system.
- (e) **Accounts Payable:**  
Telephones and security.

The costs of the work done, as outlined above, were incurred by various Units and at different financial years, therefore, the actual costs are not readily available, however a conservative estimate based on costs incurred in other buildings, the costs of the refurbishments and other upgrades could be approximately R15 000 000.00 (Fifteen Million).

With Committee being in support of the proposal,

**COMMITTEE RECOMMENDS:**

4.8.1 That the Council notes the reasons to amend Contract 1H-21374, in terms of Section 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003 for the extension of existing lease contract with Delta Property Fund in respect of the Shell House Premises Building situated at 221 Anton Lembede Street, Durban in total of extent of 13828m<sup>2</sup> for an initial period of Twelve (12) months with effect from 01 November 2023 and terminating on 31 October 2024 with an option to renew for further periods of twelve months each, which basically relate to there being no alternative premises secured to accommodate the magnitude of various Municipal Units currently accommodated in this building, whilst Shell House is strategically located, with the building being close to the City Hall which is the Municipal headquarters, and with it being generally known by the public as the building rendering Municipal services, and the Units also having spent a fortune renovating their respective spaces.

4.8.2 That the Executive Committee notes the public participation process was advertised through the media, in terms of Section 116(3) of MFMA as part of achieving compliance requirements pertaining to the public participation process to invite public comments on the proposed contract amendments, and there were no objections received.

**Financial Implications:**

Basic (Monthly)	Basic Rental (Annual)	Period
R1 375 237.74	R16 502 852.88	1 November 2023-31 October 2024

**NOTED.**

4.9 2023 National Transport Month: eThekweni Municipal Activities:  
(Page LOT: Human Settlements and Infrastructure Committee - Agenda 2023-09-22)

The month of October is declared National Transport Month in South Africa. During this month different Transport Departments, Authorities and Entities

showcase transport infrastructure, services and flagship programmes that are being delivered across all modes, including aviation, maritime, roads, rail, and public transport.

The eThekweni Transport Authority also has several programmes to celebrate and showcase local milestones and developments in the transport sector that are designed to improve the lives of its citizens through connectivity and access to opportunities. In addition, the Municipality will collaborate with the National and the Provincial Government where projects have an impact on the City's economy and overall society.

The Transport Month 2023 is planned around three (03) key areas, namely, the implementation and operational phases for the GO! Durban programme; Road Safety; and the Public Transport Industry Transformation and Empowerment. The focus on these specific areas is to demonstrate the advancement, inclusivity, empowerment, and transformation across both public and private transport in eThekweni Municipal area.

### **GO! DURBAN PROGRAMME:**

The GO! Durban programme has made significant progress in recent months that will be celebrated during the 2023 Transport Month. For the Implementation Phase, the programme continues to demonstrate the expansion of the GO! Durban network (routes within phase one) as it hands over completed infrastructure for the C1 route, and the introduction of new contracts along the C3 and C9 routes that will serve as key connectors of the network. The long anticipated Operational Phase will launch various elements of the GO! Durban network and systems. These elements are a demonstration of true integration across various public transport services, systems, and modes of the GO! Durban programme. New conversations surrounding private and public transport e-mobility solutions and pedestrianization that responds to current issues such as climate change will be deliberated on, and imminent plans shared.

Also, there will be various community-driven activities that showcase the ramp-up to the start of operation for the trunk route service (C3) and the sustainability of the GO! Durban Cycle Academy. Towards the latter part of the month (and beyond the transport month) will be the official launch of the GO! Durban feeder service – new routes, service improvements, new and upgraded infrastructure and traffic management transport centres.

### **C1 Infrastructure Handover:**

Completed public transport infrastructure will be handed over to communities affected by a portion of the C1 route. This completion will demonstrate the expansion of Phase One routes within the GO! Durban network

### **E-Mobility Launch:**

The introduction of a new era for private and public transport in the City, bringing key partners closer to the discussion on integration of efforts and resources, as well as alignment with green sustainability models and concepts.

### **Mayor's Reception Breakfast: GO! Durban Academy:**

Introduces the new strategy for the GO! Durban Academic whereby the impact of the programme is extended and realised by all members of the communities they serve (not only the participants of the programme) including attracting partners that align with this benefit/value and sustainability modelling.

### **Open Streets: Dr. Pixley KaSeme Street:**

The pedestrianization will transform the space from car-use to public use creating increased pedestrian safety, less air and noise pollution and green space development.

**GO! Durban Feeder Service Launch:**

The official launch of the GO! Durban network, specifically the launch of new feeder routes within the network. The routes will be operated by participants of the Moja Cruise programme that have graduated to a GO! Durban feeder service contracted environment comprising of new public transport improvement principles.

**ROAD SAFETY:**

The Road Safety Plan during transport month is strategic in that it is responding to research data of where and which stakeholders are exposed to various road safety related issues such as high child pedestrian and high serious and death crashes.

Programmes are the combined efforts of eThekweni Municipality (ETA- Road Safety Branch), the Department of Transport, Public Transport Industry, Metro Police and the Road Accident Fund and will be implemented in five regions across the City to ensure that the impact is wide-spread, messaging curated and streamlined to the relevant stakeholders including Pedestrians, Communities and Schools.

A new initiative will also be implemented at a high crash rate schools whereby a road safety park including road markings and signage will be incorporated into the school premises for further road safety education and support.

**Taxi Rank Activations:**

This is a partnership with the Minibus Taxi Industry (EMTC) under their road safety wing, Hlokomela and the City. This is aimed at reaching out to most of the public transport drivers, operators and the commuters in eThekweni. This will take place in all five (05) eThekweni taxi regions.

**Road Safety Prayer:**

This is a prayer against road accidents in eThekweni, and will include the public transport industry, interfaith organizations, law enforcement agencies and other stakeholders, and will take place in the Durban central and the south regions.

**Road Safety initiatives:**

This includes Road Safety awareness campaigns in schools, safety at pedestrian crossing points, public transport drivers (buses and taxis), and community safety related initiatives.

**Moja Cruise driver of the month & year awards:**

The ETA and the Minibus Taxi Industry will be recognizing all the drivers that continued to be on their best behaviour throughout the year with road worthy vehicles.

**PUBLIC TRANSPORT INDUSTRY TRANSFORMATION AND EMPOWERMENT**

The Municipality in partnership with the EThekweni Metro Taxi Council (EMTC) and the Bus industry Leadership has launched various initiatives in recent years aimed at meaningfully transforming the industries. One of the most instrumental programmes has been the Moja Cruise programme, a programme that introduced a formal and contracted environment between the City and Operators. Moja cruise has one thousand (1 000) participants enrolled in the programme ensuring roadworthiness of vehicles and better customer service.

The mini-bus industry specifically has embraced the programme and advanced it to a point where they run their own facilities for monitoring and tracking of the programme.

The programme cuts across various levels of the industry and acknowledges the contribution specifically by drivers. This programme combined with Hlokomela activations reinforces road safety during transport month and beyond with operators, passengers, and other public transport stakeholders.

Accelerated transformation of the industries is being facilitated through the recent approval of the tactical adjustment approach in the implementation of the GO! Durban programme. Widespread awareness of the status, progress and way forward will be presented throughout the October Transport Month, with members of the sector and other stakeholders.

A milestone achievement will also be celebrated as the Municipality officially launches the GO! Durban feeder service under the tactical adjustment approach. The sector will continue to evolve and adapt in line with transformation principles. The City will continue to support this notion from a facilitation perspective, bringing key business partners to be part of the conversation to enable the sector to achieve accelerated transformation and empowerment.

**Moja Cruise Driver of the Year Awards:**

Demonstrating the growth and success of key contributors of the programme-drivers. The ceremony will showcase the steady transformation of the industry whereby there is improved driver behaviour and skills development, as well as safer vehicles and more a customer centred service overall.

**SANTACO Business Summit:**

Taking the conversation with partners to the next level whereby specific intent to support the industry is activated contributing to the further empowerment and transformation of the industry.

**Financial Implications:**

The table below reflects the activities and the associated costs for the implementation of the transport month activities. The activities that appear on the Transport Month Calendar, but are not listed on the table below, will be funded through the Unit’s annual budget which is already approved. The Committee should note that the ETA will spend the amount of R 3 180 000.00 (Three Million One Hundred and Eighty Thousand Rand) to cover the costs for venue hire, sound, stage, Master of ceremonies, catering and other activities relevant to the success of the transport month. Provision for this amount has been made from the ETA budget.

No.	Programme	Cost
1.	Taxi Rank City/(EMTC) Road Safety Awareness Activities – Five Taxi Regions.	R800 000.00
2.	Road Safety Prayer (Central and South) regions	R450 000.00
3.	Public Transport Driver Awareness campaign	R150 000.00
4.	Bus Driver Competition – Promotion of safe vehicles and driving	R70 000.00
5.	Road Safety Prayer (Central and South) taxi regions	R450 000.00
6.	Open Streets: Dr Pixley KaSeme Street (City Hall portion only)	R500 000.00
7.	Walkabout with Human Settlements & Infrastructure Committee	R80 000.00
8.	ETA/SANTACO Business summit -	R680 000.00
<b>TOTAL</b>		<b>R3 180 000.00</b>

Some of the members were not in support of the recommendations at the Support Committee level, and the matter was accordingly put to the vote, and passed by the majority vote. With 25 Councillors present, 16 Councillors (ANC - 11, EFF - 3, IFP - 2, KZN1 - 1) voted in support of the recommendations and 9 - DA Councillors voted against the recommendations.

The DA (3) maintained its dissenting vote at the Executive Committee level pointing out there is no close out Report received on transport activities to play an oversight role through monitoring whether intended objectives are achieved. Further, the attention was drawn to the crisis faced by the Municipality, in particular, the infrastructural challenges. The view then being that the primary focus should be redirecting funds to addressing key service delivery matters, as opposed to the activities that the DA felt the Municipality can live without undertaking them.

The IFP (01) voted against as well, supporting the view that priority be given to key service delivery matters, and queering the significance of the Moja Cruise Programme for instance in the bigger scheme of things. Meanwhile, the ANC (03); and the NFP (01) supported the matter, given the compliance requirements associated therewith, and noting that the Moja Cruise is part of service delivery given its intended objectives surrounding the improvement of safety of both taxi drivers and commuters, and this having a major impact on protection of human life.

With there be equality of votes, the Chairperson exercised her casting vote, and therefore, the matter being approved by the majority vote. In view thereof, accordingly,

**COMMITTEE RECOMMENDS:**

That authority be granted for the Acting Head: eThekweni Transport Authority to lead the eThekweni Municipality programme of events schedule to celebrate the 2023 National Transport Month in October, it being noted that the events to be driven by the Municipality will cost an estimated the amount of R3 180 000.00 (Three Million One Hundred and Eighty Thousand Rands), which is budgeted for in the 2023-24 EThekweni Transport Authority's operating budget.

**Financial Implications:**

The table below reflects activities and the associated costs for the implementation of the transport month activities. The activities that appear on the transport month calendar but are not listed on the table below will be funded through the Unit's annual budget which is already approved. The Human Settlements and Infrastructure Committee's approval is therefore only required for R3 180 000.00 (Three Million One Hundred and Eighty Thousand Rands) which is the budget that is needed in order to successfully implement the October Transport Month for the year 2023 and provision for this budget has been made from the ETA fund.

NO	PROGRAMME	COST
1.	C1 Infrastructure Handover	R150 000.00
2.	E-mobility launch	R150 000.00
3.	Mayor's reception breakfast- GO! Durban academy	R200 000.00
4.	Open Streets: Dr Pixley KaSeme Street (City Hall portion only)	R500 000.000
5.	GO! Durban feeder service launch	R100 000.00
6.	Taxi Rank Activations- City (EMTC) Road Safety Awareness Activities- Five Taxi Regions.	R 800 000.00
7.	Road Safety Prayer (Central and South) Regions	R450 000.00
8.	Road Safety Initiatives	R150 000.00
9.	ETA/SANTACO Business summit	R680 000.00
<b>TOTAL</b>		<b>R3 180 000.00</b>
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**The DA indicated that the performance of the eThekweni Transport Authority was questionable given the fact that to-date the GO! Durban project has not been completed. Also, the majority of the roads in eThekweni were not maintained and thus posing danger to motorists.**



**That lack of enforcement of regulations to manage speeding violations and other related Road By-laws is evident. Erection of proper road signage in certain Schools was also lacking and, with an urgent need to review the Traffic Calming Policy.**

**As some Councillors were not in support of the recommendations, the matter was put to the vote. With 176 Councillors present, 114 Councillors (ANC-88, IFP-14, ABC-01, ACC-02, ACDP-02, AIC-01, DLC-01, APF-01, ATM-01, KZNI-01, NFP-01 and PRM-01) voted in support of the recommendations and 62 Councillors (DA-52, Action SA-03, AL JAMAHA-01, MF-01, MOSA-01, PFP-01, TA-01, UIM-01 and VF PLUS-01) voted against the recommendations. There were no abstentions recorded.**

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

### **DIRECT EXCO REPORTS**

5. **NOTING OF THE DECISION BY THE BOARD OF DIRECTORS OF THE DURBAN MARINE THEME PARK (USHAKA MARINE) TO WRITE-OFF IRRECOVERABLE EXPENDITURE (9/1/3)**

(Page 1)

The Municipal Council is advised of the decision taken by the Board of Directors of the Durban Marine Theme Park (DTMP), trading as Ushaka Marine World, to write-off irrecoverable expenditure of R15 108 675.00 (Fifteen Million One Hundred and Eight Thousand Six Hundred and Seventy-Five Rand), mainly, due to irregularities surrounding the procurement processes followed to source goods and services where required.

This decision was made in line with Section 102 of the Local Government: Municipal Finance Management Act No 56 of 2003 and Regulations 75 of the Municipal Budget and Reporting Regulations, which empowers the Board of an entity to investigate Unauthorized, Irregular, Fruitless and Wasteful (UIFW) expenditure and therefore take a decision to recover or write off if deemed irrecoverable. It being noted that the Board is also expected to comply with a requirement to inform, in writing, the Mayor and the City manager of the parent Municipality, as well as the Auditor-General on the particulars of the cases, including steps taken to recover incurred UIFW, as well as the mitigating measures to be implemented going forward to avoid repeat of this conduct.

In a nutshell, the Board conducted investigations on cases involving alleged failure to obtain three (03) quotations, as per the requirement in terms of the Supply Chain Management Regulations. Also, the case involving alleged fraudulent letter of award. The outcome thereof revealed that value for money was achieved and that necessary processes were followed, including reporting in writing to the Internal Control Unit, the Bid Adjudication Committee and the DTMP Social & Ethics Committee. As part of mitigating measures, consequence management has been implemented against the DMTP officials implicated, and with the matter pertaining to fraudulent letter of award being submitted for the facilitation of a criminal investigation by the eThekweni Municipality City Integrity and Investigations Unit.

With the Executive Committee noting compliance requirements associated with this matter,

COMMITTEE RECOMMENDS:

That in compliance with Section 102 of the Municipal Finance Management Act, read together with Regulation 75 of the Municipal Budget and Reporting Regulation, Council notes the decision taken by the Board of Directors of the Durban Marine Theme Park to write-off an irrecoverable expenditure of R15 168 765.00 (Fifteen Million One Hundred and Sixty-Eight Thousand Seven Hundred and Sixty-Five Rand), it being noted that the necessary processes including investigation; determining value for money; and implementing consequence management have been complied with, including facilitating criminal investigation in relation to fraudulent activities involved.

**Commenting on the matter, the IFP pointed out that when the Ushaka Marine Theme Park was established, the expectation was for same to be self-sufficient and also contribute to job creation. Given this, the notion of approving decisions that would impact negatively to ratepayers was not condoned and the IFP registered that they would abstain on this matter. They further called for the Municipality to conduct assessment to establish viability of this establishment.**

**The ACDP also registered that they would abstain on the matter and mentioned that that throughout the years, the Municipality has been approving write offs on irrecoverable expenditure incurred by Durban Marine Theme Park with no consequence management being implemented. A similar sentiment was shared regarding assessing future of the establishment.**

**Thereafter, the ANC supported the matter pointing the responsibility by the Municipality to ensure availability of attractions within the City and thus working in cooperation with its entities in this regard. The entity in question was considered instrumental in boosting the tourism sector in the eThekweni Municipal area.**

**With the IFP and the ACDP abstaining, the recommendations of the Executive Committee were, **NOTED.****

6. NOTICE OF MOTION: PROPOSED BY COUNCILLOR ZM MNCWANGO AND SECONDED BY COUNCILLOR M KUBHEKA: INSOURCING ALL SECURITY PERSONNEL WITHIN THE MUNICIPALITY THAT ARE UNDER PRIVATE SERVICE PROVIDERS (8/2/1/4/4)

(Page 21)

The Council at its meeting of 15 August 2023 carried the Notice of Motion by Councillor Mncwango regarding investigating the possibility of insourcing Security personnel serving the eThekweni Municipality as per the contracted service. The Motion was amended to also include the insourcing of contracted Cleaning Service. Further amendments were effected to mandate the City Manager to conduct the feasibility study on the proposed insourcing of contracted services and report to Council in a 3-month time from the date of this Motion. Also, that consideration be given to incorporating the insourcing proposal in the adjustment budget in preparation to place people affected.

This submission serves to provide update arising from the discussions at the Executive Committee level, but is not intended to rehash discussion since decision is already in place in this regard.

The Executive Committee then reaffirm the decision to mandate the City Manager to conduct a feasibility study to look into financial implications surrounding the proposed insourcing; organisational structure; and other relevant factors impacting the proposed insourcing. The Committee also accepted a legal opinion given regarding the feasibility, where clarity was given that the feasibility study referred to in Sections 76; 77; and 78 of the Local Government: Municipal Systems Act of 2003 entails an involved process which also include the public participation process and detailed cost-benefit analysis in consultation as well with National and Provincial Treasury, including the companies providing contracted service. That, if this is the approach to be taken, then the 3-month period stipulated is not achievable in terms of concluding all compliance processes.

The Committee then agree that the City Manager would have to submit a Report to the Executive Committee unpacking the process to be followed to investigate the practicality of insourcing contracted services, and gain insight into the broader issues involved and the timelines associated therewith.

Meanwhile, the Committee noted that the matter has drawn the attention of media, and with expectations raised that people affected will be absorbed by the Municipality in the near future, and this having potential to create challenges for the Municipality given the processes to be followed prior to eventually reaching finality on this matter.

In this regard, a decision was taken for the Communications to issue a statement, unpacking processes to be followed to attend to the Motion for all stakeholder to get accurate information in this regard and understand the processes to unfold.

Accordingly,

#### COMMITTEE RECOMMENDS:

- 6.1 That Council notes that the Executive Committee is attending to the Motion by Councillor ZM Mncwango, as amended by the Council, and pertaining to the insourcing of contracted security and cleaning services, subject to a feasibility study being conducted to determine the practicality thereon and informs final decision to be taken by the Council on this matter.
- 6.2 That Council notes the City Manager will provide progress report to the Executive Committee unpacking processes involved with regard to the insourcing to then enable the Executive Committee to propose reasonable timelines within which to submit outcome of the feasibility study to be undertaken.
- 6.3 That, given that the Motion in question has attracted the attention of media and the general public, as well as people affected by the proposed insourcing, in particular, with unrealistic commitments being communicated whilst the proposal entails an involved process, the City Manager be tasked to issue accurate information on the processes to unfold in dealing with this matter, and such information to be disseminated through the Communication Unit for the information of all interested parties.

**Prior to allowing for the debate on the matter, the ANC requested for a legal opinion whether it was procedurally correct to allow for this motion to be debated as it was now submitted as a report back from the Executive Committee which detailed the**

progress made. The Speaker confirmed that all Councillors were allowed to debate on the items contained in the agenda, moreover the name from the ActionSA was submitted to form part of the list of the speakers on the matter and not as the sponsor of the motion

Also responding, the Head: Legal and Compliance advised that the matter as contained on the agenda is work in progress since the Executive Committee has directed the City Manager to conduct a feasibility study and submit firm recommendations on the matter. Moreover, what is being presented in this meeting is not a final report.

Having been given the opportunity, the ActionSA commented on the aspect of timeframe, that if three (03) months is inadequate to conclude feasibility study there should be specific indication as to the timeframe considered reasonable for this purpose. Therefore, a request was made that specific timeframe be confirmed in this regard to inform proper oversight and accountability.

Thereafter, on the basis that feedback Report will be provided on this matter, update by the Executive Committee was, **NOTED.**

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## SECOND REPORT OF THE EXECUTIVE COMMITTEE

(Special Meeting held 2023-09-27)

- 
- PRESENT : Executive Committee Members ZP Myeni (Deputy Mayor & In the Chair), A Beetge, NI Madlala, TM Mthethwa, OB Mvubu, BT Ntuli and ZR Sokhabase.
- ABSENT : Executive Committee Member TM Kaunda (Mayor: Municipal Business), Y Govender and MS Nkosi.

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*It should be noted that the DA abstained on all items contained herein given that the Reports were circulated overnight, and with the Special Meeting of the Executive Committee convening the following day at 07h00 in the morning, thus leaving no room for Party Caucuses. The other Parties agreed to discussing the Reports given the urgency to address service delivery matters, in particular infrastructural restoration, even though it was also considered unacceptable to receive Reports at such an eleventh hour. Meanwhile, an apology extended by Management was also noted, as indication was given that the Public Holiday also impacted the internal Reports routing system.*

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1. ADOPTION OF INTEGRATED DEVELOPMENT PLAN PROCESS PLAN FOR THE 2024/2025 FINANCIAL YEAR (2/1/6/1)

(Page 1)

In terms of Chapter 5, Section 34 of the Local Government: Municipal Systems Act No. 32 of 2000 requires Municipalities to review and amend their Integrated Development Plans (IDPs) annually, in accordance with their performance assessment measurements. Section 28 further stipulates that the Municipal Council must adopt a process to guide the planning, drafting, adoption and review of its IDP. As such, the draft 2024/2025 IDP Process Plan was presented seeking authority to conduct the public participation process, and which was granted by the Council. The public participation process has been concluded and the matter is now resubmitted to the Council for final approval.

With the Executive Committee acknowledging that this was a statutory compliance matter, and the DA abstaining accordingly,

COMMITTEE RECOMMENDS:

- 1.1 That the final 2024/2025 Integrated Development Plan (IDP) Process Plan, contained in the report of the City Manager dated 2023-09-20 and circulated separately, developed in line with the requirements of the Local Government: Municipal Systems Act No. 32 of 2000, to guide the planning; drafting; adoption; and the review of the Integrated Development Plan of the eThekweni Municipality, be adopted.
- 1.2 That upon obtaining Council approval as per .1 above, a copy of the Process Plan, be submitted to the Honourable MEC for Co-operative Governance and Traditional Affairs, as per the statutory requirement.

**ADOPTED.**

2. NOTING OF REASONS TO AMEND CONTRACT IE-43085 IN TERMS OF SECTION 116 (3) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT NO.56 OF 2003 FOR THE PROVISIONS OF SERVICE TO CONDUCT DEEDS OFFICE SEARCHES (17/1/1)

(Page 51)

The Real Estate Unit intends extending the existing contract with Lexis Nexis Risk Management (Pty) Ltd for the provision of Deeds Office searches. The service provider supports the Real Estate to manage the valuation roll which is required in terms of the Local Government: Municipal Property Rates Act, 2004, as amended, and with the valuation consisting of a number of five hundred and thirty thousand six hundred and forty-nine (530 649) properties which are key to revenue generation with the Municipality.

The reason for the intend existing contract with Lexis Nexis Risk Management is that they are the only provider that can deliver on the scope of work required by the Municipality, and this being undertaken at a reasonable cost. They provide seamless integration with the existing Value Assist System to ensure data integrity and reliable outcomes. Lexis Nexis Risk Management provides unique products which consists of the following:

- a) **Bulk Search Service:**  
The valuation roll data on excel format is given to Lexis Nexis to run searches against their database and only charge costs based on the variance results, which is great value for money for the Municipality.
- b) **WinDeed Spider:**  
The report is only available from Lexis Nexis and it gives access to in-depth property ownership profile, with current and historical ownership information of a person or company.
- c) **Batch Live Deeds Office Searches:**  
The facility is automated and process multiple deeds office searches at real time.
- d) The datasets from Lexis Nexis are vector and refined.
- e) Lexis Nexis will provide the Municipality with datasets in a suitable flat line
- f) format (CSV/XLS/XLSX/ TXT) or any other format where analysis can be done to compare the data in a short space of time.
- g) The datasets will identify mismatches between the Municipal property data and WinDeed database.
- h) Report on the variance between the Municipal property data and WinDeed database.
- i) Datasets are fully interpretable with Municipal Systems (Value Assists)

The DA abstained on the matter, and the other Parties in support given the significance to retain the existing contract based on the provision of specialist valuation roll services thus supporting the Municipality to maintain authentic property valuation roll register.

Accordingly,

**COMMITTEE RECOMMENDS:**

2.1 That Council notes the reasons outlined in the table below for the proposed amendment of Contract: IE-43085, in terms of Section 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003, for the provisions of Deeds Office Searches with Lexis Nexis Risk Management Pty Ltd Windeed/Wincredit:

<b>Details</b>	<b>Existing Contract</b>	<b>Proposed Amendment</b>	<b>Reason</b>
Contract Terms	36 months	A further 36 months	Lexis Nexis is the only service provider who can deliver on the scope of work required at a reasonable cost having considered system integration together with its unique offering explained above.

Details	Existing Contract	Proposed Amendment	Reason
Scope	Deeds office Database search functions only	To include Windeed Database Search Functions	The existing contract allows for search function from the Deeds Office Database only. The proposed amendment will include a Windeed Database search function. This will ensure cost saving as the searches from the Windeed Database comes at a cost which is substantially lower than the cost of searches from the Deeds Office Database. The Windeed Database searches has a 24 hour delay for data updates from the Deeds Office Database. This would sufficiently meet the departments requirements. The searches via the Deeds Office Database will be undertaken under exceptional circumstances only when the need arises. The table under financial implications includes the bill of quantities which highlights the actual cost variations.

2.2 That Council notes the public participation process advertised through the media, in terms of Section 116(3) of the MFMA, as part of achieving compliance requirements pertaining to the public participation process to invite public comments on the proposed contract amendment, and that there were no objectives received in this regard.

**Financial Implications**

Proposed Contract Extension and Variation								
Bill of Quantity								
Item	Estimated Quantity Required	Description / item code	Rate per search Year 1 (Excl VAT)	Cost Year 1 (Excl VAT)	Rate per search Year 2 (excl VAT)	Cost Year 2 (Excl VAT)	Rate per search Year 3 (Excl VAT)	Cost Year 3 (Excl VAT)
1	4000	Deeds Office Property	R21.35	R85.400.00	R22.74	R90 960.00	R24.21	
2	1000	Document Search	R21.35	R21 350.00	R22.74	R22 740.00	R24.21	R96 840.00
3	1000	Document Copy per document	R103.81	R103.810.00	R110.5	R110 550.00	R117.73	R24 210.00
4	100	Surveyor General Diagram	R7.42	R742.00	R7.90	R790.00	R8.41	R117 730.00
5	100	Erf to Street Conversion	R11.33	R1 133.00	R12.06	R1 206.00	R12.85	R841.00
6	100	Scheme Conversion	R11.33	R1 133.00	R12.06	R1 206.00	R12.85	R1 285.00
8	4000	WinDeed Database Property	R13.94	R55 760.00	R14.86	R59 440.00	R15.81	R1 285.00
9	100	WinDeed Property Report	R15.44	R1 544.00	R16.44	R1 644.00	R17.51	R63 240.00
10	1000	WinDeed Database Document Search	R13.94	R13 940.00	R14.86	R14 860.00	R15.51	R1 751.00
7	200	Contact Information searches – VeriCredit	R8.01	R1 602.00	R8.53	R1 706.00	R15.81	R15 810.00
		<b>Total (Excl VAT)</b>						<b>R324 808.00</b>

Existing Contract								
Bill of Quantity								
Item	Estimated Quantity Required	Description / item code	Rate per search Year 1 (Excl VAT)	Cost Year 1 (Excl VAT)	Rate per search Year 2 (excl VAT)	Cost Year 2 (Excl VAT)	Rate per search Year 3 (Excl VAT)	Cost Year 3 (Excl VAT)
1	6000	Deeds Office Property	R17.49	R104 940.00	R18.62	R111 720.00	R19.83	R118 980.00
2	2000	Document Search	R17.49	R34 980.00	R18.62	R372 240.00	R19.83	R39 660.00
3	1000	Document Copy	R79.07	R79 070.00	R84.20	R84 200.00	R89.68	R89 680.00
4	100	Surveyor General Diagram	R6.03	R603.00	R6.42	R642.00	R6.84	R684.00
5	100	Erf to Street Conversion	R8.71	R871.00	R9.28	R928.00	R9.88	R988.00
6	100	Scheme Conversion	R8.71	R871.00	R9.28	R928.00	R9.88	R988.00
7	200	Contact Information searches - VeriCredit	R5.71	R1 142.00	R1 216.00	R1 216.00	R6.47	R1 294.00
		<b>Total (Excl VAT)</b>		<b>R222 477.00</b>		<b>R236 874.00</b>		<b>R252 274.00</b>

**NOTED.**

3. UPDATE ON TONGAAT HULETT DEVELOPMENTS (Pty) Ltd BUSINESS RESCUE STATUS (7/6/4)

(Page 172)

The Tongaat Hulett Developments (THD) (Pty) Ltd and Tongaat Hullet Limited (THL) has been a leader in the property development sector in eThekweni and has made substantial contribution unlocking agricultural land development of the Gateway precinct, Umhlanga Ridge Town Centre, Mount Edgecombe Golf Estate, La Lucia Ridge Office Estate and Ridgeside.

As strategic partners, the THD and the Municipality have mutually beneficial strategic partnerships such as the Bridge City Joint Venture. THD and THL have multifarious relationships with the Municipality. It being noted that the relationship with THD is far more extensive than with THL, which relationships can be summarised as a Developer; Strategic Partner; Agent acting on the Municipality's behalf, and a Ratepayer.

Therefore, this report intends to inform Council of the impact of the business rescue and the course of action undertaken thus far, as well proposed way forward, to leverage best outcomes for the Municipality. In this regard, THD Business Rescue Practitioner (BRP), duly appointed in terms of the Companies Act No. 71 of 2008, oversees the entity during business rescue proceedings.

The BRP determines the most viable option for the rehabilitation of the business. The options thereof include, inter alia, trading as usual, a controlled winding down or liquidation. Mention being made that a plan must be adopted by creditors, the Municipality is a secured creditor for rates only, with voting interest recorded at 3,03%.



It being noted that the business plan was published and adopted in May 2023. The BRP has opted for a controlled winding down of THD, which was viewed as favourable for the Municipality, and the implications thereof being reflected below:

**(i) Rates**

The business rescue plan recorded that the Municipality enjoys a preferent claim for the payment of outstanding rates.

**(ii) Development and infrastructure obligations**

In cases where THD had sold land parcels prior to business rescue, risk arises due to non-compliance with the conditional approvals.

The infrastructure obligations relate to the following precincts:-

- Ridgeside Development
- Sibaya Development
- Izinga Development
- Umhlanga Rocks Town Centre
- Greater Umhlanga Area
- Cornubia

The Municipality, THD and other holder of the guarantees are exploring various solves including, but not limited to completing projects which are close to finalisation, passing on approvals/amending conditions and calling up guarantees.

**(iii) Claims in business rescue.**

The Municipality's claim is recorded in the business rescue plan as an amount of approximately R228 Million, it being noted that eThekweni retains all statutory security/rights for arrear rates due to it on the properties owned by THD.

**(iv) Effingham Development Joint Venture.**

The Effingham Development Joint Venture (EDJV) is a joint venture entered into between the Municipality and the THD. In terms of this EDJV agreement, the EDJV controlled land in the Effingham Avoca and Bridge City complexes. The Effingham Avoca land component (Riverhorse Valley) has fully developed. The only land parcels that currently lie under the control of EDJV are properties within the Bridge City complex. The EDJV is obliged to develop land in its control and onward sell the sites for a profit. The profits after the deduction of certain stipulated expenses would be shared pursuant to the terms of the EDJV agreement.

It being noted that the departments within the Municipality have expressed interest in the remaining properties within the Bridge City complex. THD and the Municipality have determined that the best way forward would be to terminate the EDJV and to allow for the parties to record the procedure for the dissolution and distribution of the funds held.

On the other hand, the Municipality was notified that the business plan rescue for THL is yet to be published. That a matter which will require attention is the Maidstone Water Purification Works (Purification Works) as the land upon which the Purification Works is constructed is owned by THL.

Given the background, and with the DA abstention being recorded,

COMMITTEE RECOMMENDS:

That Council notes that the Tongaat Hulett Developments (THD) (PTY) LTD and the Tongaat Hullet Limited (THL) have been subjected to business rescue impacting the Municipality as the strategic partner on property development, and further note various interventions undertaken to mitigate risk to the Municipality, it being recorded that Business Rescue Practitioner appointed has recommended a controlled wind down which is considered favourable to the Municipality, and with a Business Plan in this regard having been approved on 30 May 2023 to achieve the following:

- (i) Address certain limited specific environmental issues/directives affecting certain property developments;
- (ii) Conducting sale processes until April 2024 to generate income;
- (iii) Reduce the overhead cost base of THD, winding down its operations, and ultimately winding up the THD itself,
- (iv) Realise fair value from all legal claims and other assets held by the THD;
- (v) Where possible and permitted, make provision from realizations to cater for the costs of the business rescue, including the costs of winding up;
- (vi) Maintain the moratorium business rescue, other than to extend otherwise provided for in the business rescue plan; and
- (vii) Distribute surplus funds to creditors;

**NOTED.**

### **REPORT OF THE ETHICS COMMITTEE**

It was noted that the Chairperson of the Ethics Committee requested that the report of this committee should be dealt with during the physical meeting of Council. **NOTED.**

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

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

1. ASSESSMENT OF MUNICIPAL PUBLIC ACCOUNTS COMMITTEE FUNCTIONALITY ON UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE (UIFW) OVERSIGHT PERIOD ENDING 30<sup>TH</sup> JUNE (QUARTER 4 OF 2022/23)  
(as contained in the Council Agenda 2023-10-10)

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 12<sup>th</sup> 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 fourth 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% for the fourth quarter and is fully functional.

#### COMMITTEE RECOMMENDS:

That Council notes the Municipal Public Accounts Committee (MPAC) has achieved 100% in terms of the assessment of the MPAC by the Provincial Department of Cooperative Governance and Traditional Affairs for the period ended 30 June 2023, it being recorded key focus areas during the assessments included:

- (i) Statutory obligations pertaining to the functionality of the MPAC
- (ii) MPAC oversight over ongoing investigations
- (iii) MPAC oversight on the conclusion of investigations
- (iv) MPAC oversight on implementation and tracking of consequence management

**NOTED.**

2. UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL (UIFW) EXPENDITURE: MULTIPLE FINANCIAL YEARS FROM 2017/2018 TO DATE (2022/2023)  
(as contained in the Council Agenda 2023-10-10)

**BACKGROUND**

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

The section reads as follows:

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

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

**ANALYSIS OF UIFW CASES FINALISED**

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

- A report was prepared by the Unit that incurred irregular expenditure after investigation by the said Unit. The report disclosed the deviation from Supply Chain Management Policy, the reasons for the deviation and the value of the expenditure.
- The report together with the supporting documents were submitted to the Internal Control Unit for review and thereafter were submitted to the Bid Adjudication Committee for noting purposes.
- The Internal Control Unit reviewed and applied its mind on the report and considered whether there was any value for money obtained by the municipality or any losses suffered by the municipality due to non-compliance detected using the following questions:
  - a) The nature of the irregularity
  - b) Whether or not the contracts followed the SCM public tender process

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

Cumulative UIFW expenditure totaling **R310,526,205.34** (Three hundred ten million five hundred twenty-six thousand two hundred five rands and thirty-four cents) was identified by the following sources namely:

Source	Year	Annexure	Amount
Auditor General South Africa	2022/2023	A	7,994,323.73
City Integrity & Investigations	2015-2019	C	19,262,928.25
Auditor General South Africa	2016-2022	B	219,963,106.05
Internal Control	2011-2016	D	63,305,847.31
<b>TOTAL</b>			<b>R310,526,205.34</b>

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.

In addition, the Committee received a presentation on an investigation of UIFW expenditure by the City Integrity and Investigations Unit (CIU) in prior years. We delved into this investigation to ascertain the root cause of the UIFW expenditure and to establish the reason for delays in implementing CIU's recommendations.

Many of the matters that we dealt with date back to 2015-2019, therefore it is unlikely that any disciplinary action that is initiated now will be successful as Section 7.4 of the Disciplinary Collective Agreement states that a disciplinary hearing should commence as soon as possible but no later than three months from the date when a decision is taken to institute disciplinary proceedings. Furthermore, recovery also has a deadline as debt prescribes after three years. It will therefore be impossible to institute recoveries in matters that are three years and older.

Whilst we believe that officials should be held responsible for incurring UIFW expenditure and believe that the necessary disciplinary proceedings should be instituted in this regard, it is unfortunately not our responsibility to undertake such actions. It is the sole responsibility of the Accounting Officer and his management; with the Financial Misconduct Disciplinary Board playing a role in instances of financial misconduct. However, as part of our oversight duties we receive quarterly reports from the Financial Misconduct Disciplinary Board and

the team, that is led by the Deputy City Manager: Corporate and Human Capital, to monitor the implementation of consequence management in the municipality.

Having duly considered and deliberated on the expenditure,

**COMMITTEE RECOMMENDS:**

- 2.1 That in compliance with Section 32(2) of the Municipal Finance Management Act (MFMA), irregular, fruitless and wasteful expenditure totaling **R310,526,205.34** (Three hundred ten million five hundred twenty-six thousand two hundred five rands and thirty-four cents) as detailed in ‘**Annexure A, B, C & D** of this report be certified as irrecoverable and written-off by Council based on the outcomes of the investigations of such expenditure.
- 2.2 That it be noted that any consequence management recommendations will be implemented in accordance with the relevant legislation, Council Policy and Procedures; including oversight by the Financial Misconduct Disciplinary Board.
- 2.3 That the City Manager ensures that consequence management processes are expedited to ensure that errant officials and service providers are held responsible for UIFW expenditure incurred, as any delays in this regard can result in debt prescribing and disciplinary processes not having prospects of success.

**Whilst understanding that in some instances it would be impractical to institute recoveries due to historical debt, the IFP raised concern regarding the disturbing trend of the Municipal Public Accounts Committee continually recommending write-offs.**

**The ActionSA registered its concern on the number of UIFWE matters within the Municipality and thus an urgent need to protect the image of the Municipality. Emphasis was made that the Municipal Public Accounts Committee should put more focus on recoveries as opposed to write-offs. Indication was given that there seem to be lack of consequence management against personnel implicated. Therefore, write-off was not supported.**

**The Speaker requested that the Head: Legal and Compliance to clarify about whether this report was submitted for noting or for approval. Responding, the Head: Legal and Compliance indicated that the amounts in question were dating back from 2011 and what has been happening over the years was the submission every year of the UIWFE report to the Council with appropriate resolutions being to certify that such amounts were irrecoverable, and this having been adopted consistently. However, in terms of the accounting system funds have been accruing. Therefore, Auditor-General and National Treasury systems need to be cleared by writing the funds concerned to then clean the accounting books in this regard.**

**Based on clear historical explanation given in relation to the approach on this matter, the recommendations of the MPAC were **ADOPTED**.**

3. UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL (UIFW) EXPENDITURE IN RESPECT OF REVENUE MANAGEMENT SYSTEM (RMS)  
(as contained in the Council Agenda 2023-10-10)

**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.”

### **Revenue Management System**

Having been presented with irregular expenditure amounting to R727,251,789.00 which had been incurred on the Revenue Management System (RMS) Project, we sought further information about the process undertaken to procure the system; including the reasons the Auditor-General deemed all expenditure incurred on the project irregular. In our deliberations we were advised as follows:

- In 2003, the Municipality took a strategic decision to develop its revenue management system in-house rather than buy an off-the-shelf product. Following a public process, the Council in 2003 purchased the Virtual Works Platform which was Microsoft enabled. RMS was then developed on this platform and in 2004 the replacement of the revenue management system, COINS, was approved.
- Council approval was sought and obtained to embark on and complete the project. Project authority was obtained before expenditure was incurred.
- Council deliberated on matters pertaining to RMS, including scope changes, budget changes, the functionality of the system, as well as the decision to continue with the development of the system following independent assessments and reviews.
- The RMS project predated the Municipal Finance Management Act (MFMA) and Supply Chain Management (SCM) Regulations. However, once the SCM Regulations became effective, the supply chain management processes were undertaken in 2013 and 2016. Both contracts were awarded to City Works by the Bid Adjudication Committee (BAC).

We also received the following information that:

- CIIU concluded its investigation of the Project. However, the then City Manager had indicated that he was appointing an independent IT expert to review the RMS and determine its functionality. At that point, the said former City Manager had indicated that he would make a determination on the findings of CIIU, other findings by internal and external auditors as well the expert opinion and report back to MPAC. However,

this did not happen and the irregular expenditure remained on the UIFW expenditure register.

- CIU and Internal Audit had undertaken their own investigations of the system. The R727 million incurred and deemed irregular was capital investment. Payments for maintenance and support of the system are additional this amount.

In our interrogation of the matter, we received extensive presentations on reports/findings by the following:

- City Integrity and Investigations
- Internal Audit
- Corruption Hotline
- Auditor General

Having discussed the matter at length, we initially expressed our reservations about recommending the write-off the expenditure; as there were some concerns whether value for money was indeed received due to the numerous challenges with RMS. But we acknowledged that some value was derived from system as it was being utilised by the municipality; notwithstanding its weaknesses. We were also concerned that RMS was not mSCOA (Municipal Standard Chart of Accounts) compliant and had to be replaced. However, we noted that mSCOA compliance had not been a requirement at the inception of the project. Ongoing modifications of the system, we noted, were required to ensure the continued functionality of the system and to ensure compliance with changes in legislation.

However, as MPAC, we recognise the need to process all expenditure on our UIFW register as failure to do so will have undesirable consequences for the municipality such as reputational damage and a reduction in the equitable share allocation. The Department of Cooperative Governance & Traditional Affairs has informed us that eThekweni Municipality has the second highest irregular expenditure in the country.

We have established through various CIU reports read together with expert advice that the expenditure that could have been recoverable is the sum of R131 575.95 which was deemed fruitless and wasteful, however this amount cannot be recovered as it has now prescribed. Furthermore, there are no prospects of success should disciplinary action be taken against the only official who remains in the employ of the municipality. The Financial Misconduct Disciplinary Board found that there was insufficient evidence to take disciplinary action against one official. The other official cited in the CIU Report has since left the employ of the municipality.

We note that this matter was on the agenda of two previous MPACs which failed to bring it to its logical conclusion. Unfortunately, this has now become our responsibility at a time when there is no opportunity to hold those responsible accountable.

We urge Council to finalise this long outstanding matter as it is in the best interests of the Municipality.

Having duly deliberated on this matter, Committee

#### COMMITTEE RECOMMENDS:

That having considered the various reports, both investigative and for information relating to the Revenue Management System and having discussed the matter at length, it is the



determination of the Municipal Public Accounts Committee that the irregular expenditure incurred on the project in the amount of R727,251,789.00 (seven hundred twenty-seven million two hundred fifty-one thousand seven hundred eighty-nine rands) be written off on the basis that the municipality has derived value from the system as it is currently utilised as a revenue billing and receipting system, and in any event the amount that could have been recommended for recovery has prescribed, no disciplinary processes can be undertaken, nor can any amount be recovered, with Councillor Naidoo (IFP) abstaining.

**Speaking on the matter, the IFP expressed that RMS has since its inception required huge amounts in respect of its procurement and related expenditures, yet it had not provided value for money. The matter was therefore not supported.**

**The DA pointed out that for more than ten years, RMS continued to be the highlight on Council Agendas and with this Party maintaining its position over uncertainties and exorbitant costs surrounding the introduction of this system. The inconvenience suffered by the residents as a result of this system were narrated as well as concerns ignored as having been raised by other Parties, including Labour and Auditor-General.**

**Joining the debate, the Action SA considered it unacceptable to be expected to support the write-off of an amount now close to a billion on a matter which raised eyebrows in the past and with views by different stakeholders being deliberately ignored.**

**The ANC alluded that the decisions made on RMS by previous Councils were approved collectively and not by an individual political party. Emphasis was made that even at the level of the Municipal Public Accounts Committee, recommendations were made for the Legal and Compliance Unit to look into the matter more specifically on the aspect of possible recoveries. The conclusion submitted by the Legal and Compliance Unit confirmed that recovery of any funds was not feasible.**

**As some Councillors were not in support of the recommendations, the matter was put to a vote. With 175 Councillors present, 94 Councillors (ANC-88, ABC-01, AIC-01, DLC-01, APF-01, ATM-01 and NFP-01) voted in support of the recommendations, 61 Councillors (DA-52, Action SA-03, ACDP-02, MOSA-01, TA-01, UIM-01 and VF PLUS-01) voted against the recommendations and 20 Councillors (IFP-14, ACC-02, AL JAMAHAH-01, MF-01, PFP-01 and PRM-01) abstained.**

**The above recommendations of the Municipal Public Accounts Committee were, by the majority vote, **ADOPTED.****

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

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1. NOTICE OF MOTION: PROPOSED BY COUNCILLOR VG REDDY AND SECONDED BY COUNCILLOR MH BUTHELEZI: EMPLOYEES ON SHORT-TERM CONTRACT UNDER THE PEP PROGRAMME (4/3/5/1)

This Council noting that:

The eThekweni Municipality has employed over 8000 unemployed people under PEP programme on short term contracts. They have no job security. Additionally, the entire PEP programme is poorly managed, and there is no clear direction on how these workers should be utilised effectively to provide value for money.

Further noting that:

Volunteers within the Municipality are doing excellent work in assisting communities with street patrols, maintaining verges, parks and other work normally meant to be undertaken by the Municipality and can be incorporated into the PEP programme.

This Council resolves that:

Executive Committee deliberate and report on converting all PEP worker contracts to permanent ad that the job description of PEP workers should be expanded. The current system of contract workers must end, as it is inhumane and a violation of human rights.

**Prior to the consideration of this Notice of Motion, the Speaker advised that he received an email from Councillor Reddy stating that since he was not going to be present in this meeting, Councillor Hlengwa has since been requested to table this motion on behalf of Councillor Reddy. Councillor Hlengwa confirmed the arrangement and thereafter tabled the motion. He appealed that the motion should be supported as it sought to address job security for the Public Employment Programme (PEP) people that were contracted by the Municipality. Indication was given that the services rendered through PEP are noticeable in various areas of eThekweni and supplement Cluster services.**

**The IFP stated that whilst in support of job creation, it was important for some facts to be recorded in terms of the unavailability of funds to sustain the programme, and the inability by the Municipality to absorb contracted staff serving under PEP.**

**As some members were not in support of the motion, the matter was put to the vote. With 175 Councillors present; 4 Councillors (APF-01, MOSA-01, PFP-01 and TA-01) voted in support of the motion, 168 Councillors (ANC-88, DA-52, IFP-14; ABC-01; Action SA-03; ACC-02; ACDP-02; AIC-01; DLC-01, ATM-01, AL JAMAH-01, NFP-01 and UIM-01) voted against the motion and 3 Councillors (MF-01, PRM-01 and VF PLUS-01) abstained.**

**Thereafter, the above Notice of Motion was, by the majority vote, **NOT CARRIED.****

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## **REPORT OF COMMITTEE DECISIONS**

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

### 1. **COMMUNITY SERVICES COMMITTEE**

Meetings held on : 2023-07-27  
: 2023-08-17

2. ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE

Meeting held on : 2023-08-17

3. EXECUTIVE COMMITTEE

Meetings held on : 2023-08-08  
: 2023-08-11  
: 2023-08-22

4. HUMAN SETTLEMENTS AND INFRASTRUCTURE COMMITTEE

Meeting held on : 2023-08-18

5. LOCAL LABOUR FORUM: COMMUNITY AND EMERGENCY SERVICES CLUSTER

Meeting held on : 2023-08-29

6. LOCAL LABOUR FORUM: ECONOMIC DEVELOPMENT AND PLANNING CLUSTER

Meeting held on : 2023-08-16

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

Meeting held on : 2023-06-14

8. SECURITY AND EMERGENCY SERVICES COMMITTEE

Meeting held on : 2023-08-31

9. SPEAKER'S COMMITTEE

Meetings held on : 2023-07-11  
2023-07-31

10. TOWN PLANNING APPEALS COMMITTEE

Meeting held on : 2023-07-26

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**ITEMS FOR NOTING**

**The Items for Noting, reflected on Pages 58 to 70 of the Agenda, pertaining to the items discussed and resolved at the Executive Committee level during the month of August 2023 were, **NOTED.****

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**At this stage of the proceedings (14h08), the meeting adjourned for a comfort break and later re-convened to deal with In-Committee matters.**

The meeting terminated at 14h08.

APPROVED AT THE MEETING OF THE ETHEKWINI COUNCIL ON 2023-11-02.

SPEAKER