

# **ETHEKWINI MUNICIPALITY**



## **2013/2014 OVERSIGHT REPORT**

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## 1. INTRODUCTION

The Municipal Finance Management Act (MFMA) assigns specific oversight responsibilities to Council with regard to the Annual Report and the preparation of an Oversight Report.

Given the processes required by Council to effectively undertake its oversight role, the eThekweni Council resolved that the Municipal Public Accounts Committee was the appropriate mechanism in which Council could fulfill its oversight responsibilities.

The Council referred the Annual Report to its Municipal Public Accounts Committee for consideration, to receive input from the various role players and to prepare an Oversight Report for consideration by Council.

## 2. BACKGROUND

The oversight role of Council is an important component of the financial reforms and it is achieved through the separation of roles and responsibilities between Council, the Executive Committee and Administration. Good governance, effective accountability, and oversight can only be achieved if there is a clear distinction between the functions performed by the different role players.

Non-executive Councillors are required to maintain oversight on the performance of specific responsibilities and delegated powers that they have given to the Executive Committee. In other words, in exchange for the powers in which Council have delegated to the Executive, Council retains a monitoring and oversight role ensuring that there is accountability for the performance or non performance of the municipality.

The Municipal Finance Management Act, No.56 of 2003 (MFMA) vests in Council specific powers of approval and oversight:-

- ✓ Approval of budgets;
- ✓ Approval of Budget related Policies; and
- ✓ Review of the Annual Report and adoption thereof via the Oversight Report.

### 3. ANNUAL REPORT OVERSIGHT FUNCTIONS OF THE COMMITTEE

The oversight functions undertaken by the Municipal Public Accounts Committee in relation to the Annual Report are to:-

- ✓ Undertake a review and analysis of the Annual Report.
- ✓ Invite, receive, and consider inputs from Councillors and Support Committees, on the Annual Report.
- ✓ Consider written comments received on the Annual Report from the public consultation process.
- ✓ Conduct Public Hearings to allow the local community or any organs of state to make representations on the Annual Report.
- ✓ Receive and consider Council's Audit Committee views and comments on the annual financial statements and the performance report.
- ✓ Preparation of the draft Oversight Report, taking into consideration, the views and inputs of the public, representatives of the Auditor-General, organs of state, Council's Audit Committee and Councillors.

## 4. COMPOSITION OF THE COMMITTEE

### 1. Membership

The Municipal Public Accounts Committee is a committee of Council established under Section 79 of the Municipal Structures Act, 1998. Section 79, allows for the co-option of advisory members to a Committee of Council, who are not members of the Council.

Due to the separation of roles and responsibilities, between Council and the Executive Committee members of the Executive Committee are not members of the Municipal Public Accounts Committee.

### 2. Authority & Power

The Committee is delegated the responsibility to conduct meetings and to hold public hearings to receive and hear public submissions on the Annual Report, on behalf of Council.

### 3. Meeting Schedule

The Annual Report was tabled at the Council meeting held on 29<sup>th</sup> January 2015 and it was referred to the Municipal Public Accounts Committee as well as to all Support Committees for oversight purposes.

The Report was subsequently made available for public comments as follows:-

Advertisements were placed in **The Mercury** dated 22<sup>nd</sup> January 2015; **The Daily News** dated 22<sup>nd</sup> January 2015, and **Isolezwe** dated 22<sup>nd</sup> January 2015 to inform the public on the availability of the Annual Report for comments/representations. Interested parties were required to make submissions before 01<sup>st</sup> March 2015 to the Performance Monitoring and Evaluation Unit. Access to the report was made available as listed hereunder:-

- Placed for inspection in the Municipal Libraries, Sizakala Centres and at the City Hall;
- Copies circulated to all Councillors; and
- Posted on the Municipality's website

Furthermore, in terms of the first expanded public participation program on the Annual Report four public meetings were held as follows:-

| DATE                           | TARGET GROUP        | VENUE   |
|--------------------------------|---------------------|---|
| 11 <sup>th</sup> February 2015 | Informal Traders    | Durban City Hall                              |
| 19 <sup>th</sup> February 2015 | Business            | Durban Chamber of Commerce & Industry Offices |
| 19 <sup>th</sup> February 2015 | Traditional Leaders | Pinetown Civic Centre                         |
| 23 <sup>rd</sup> February 2015 | Civic Organisations | Durban City Hall                              |

Annual Report supplements were distributed to attendees at these sessions and also distributed as inserts in the Daily News and Isolezwe (18<sup>th</sup> February 2015). The Ezasegagasini (20<sup>th</sup> February – 05<sup>th</sup> March 2015) also carried the Annual report supplement.

We have noted the following corrections proposed by the Auditor General:-

1. On page 11, ninth paragraph, line 4, the 57.2% was amended to 57.3%.
2. On page 12, ninth paragraph, line 2, the 108 days was amended to 109 days. Further, an addition i.e. National Treasury, was made after ‘109 days against a’
3. On page 13, second paragraph, line 5, the 26.7% was amended to 27.1%.
4. On page 14, second paragraph, line 2, the R295 million was amended to R296 million. Further, the R39 million was amended to R38 million.
5. On page 17, third paragraph, line 2 to 7, was amended to the following:-

“Each DCM is responsible for a Cluster (thematic area) as reflected on the organogram below. The Units within the clusters are managed by their respective Heads who report to the DCMs. In addition to the DCMs, the following five offices viz. City Manager’s Operations Office, Office of Strategic Management, Internal Audit and Risk, Information Management, and City Integrity and Investigations all report directly to the City Manager.”
6. On page 22, the table under ‘City Integrity and Investigations’, was amended. The amended table has been attached as Annexure A.
7. On page 30, the totals for the KPIs achieved, KPIs achieved within tolerance, achievement rate (%) without tolerance columns were amended to 86, 12, and 64.93% respectively.
8. On page 53, the steps to improve have been amended to the following:-

“Due to the DCM’s busy schedule and other priorities that arise, co-ordinating the meeting has been a challenge. However, a new date for the meeting has been provided and the meeting will take place in the new financial year Audit and Risk, Information Management.”
9. On page 106, fifth paragraph, line 2, the 2013/2014 was amended to 2014/2015.
10. On page 121, on the graph, the 2013/2014 figure under “houses constructed - pa” was amended from 6823 to 6809. Further, the figure for houses constructed - cumulative” was amended from 178139 to 178125.
11. On page 241, sixth paragraph, line 5, the collection rate of 105 was changed to 104.84. Further, on paragraph seven, line 2, after “at the financial year end cash” an addition of “cash and cash equivalent” was made; and, on line 3, an addition i.e. “of 90 days” was made.
12. On page 242 to 245, totals for income and expenditure were added. Further, brackets were used for expenditure items.
13. On page 243, the surplus/(deficit) after capital transfers and contributions figure was amended from R 2 536 242 to R2 389 018.

14. On page 244, an additional row was included showing figures for the cash and cash equivalent at the beginning of the year. Further, brackets were used in cash backing/surplus reconciliation to indicate outflow of cash.
15. On page 256, in the row titled “Annual Debtors Collection Rate (Payment Level %), the audited outcome figure was amended from 105.1% to 104.84%.
16. On page 257, in the row titled “Water Distribution Losses” the audited figure was amended from 39.4% to 39.2%. In the row titled “Finance charges and depreciation” the audited figure changed from 10.4 to 10.6%.
17. On page 258, in the row titled “Debt Coverage” the audited figure was amended from 11 to 11.1. Further, in the row titled “O/S Service Debtors to Revenue” the audited figure was amended from 37% to 26.2%. In the row titled “Cost coverage” the audited figure was amended from 3.3 to 4.7.
18. On page 262, the 2014 Capital charge to operating expenditure ratio was amended to 8.3%
19. On page 266, the 2013 and 2014 Employee Cost / Revenue percentages were amended 26% and 29% to 26.3% and 28.2% respectively. The changes were made to the write up and the table.
20. On page 284, first paragraph, line 2, an amendment was made from xx to pages 347 to 452.
21. On page 286, fourteenth paragraph, line 1, an amendment was made from xx to pages 454 to 460. Further, in paragraph 17, an amendment was made from xx to pages 44 to 60, under the bullet point referring to plan 3; and an amendment was made from xx to pages 99 to 105 under the bullet point referring to Plan 8.
22. On page 287, paragraph 23, an amendment from xx to pages 31 to 105 was made. Further, paragraph 24, an amendment from xx to pages 106 to 229.
23. On page 433, second paragraph, line 4, the water loss figure was amended from 39.4% to 39.2%.
24. On page 353, the Joint Venture Loan account was amended from 13 to 15.
25. On page 350, cash and cash equivalents was amended to bank balances and cash.

The comments/ representations received are reflected in the report that has been attached as Annexure B. We have requested Units to provide responses to the comments/ representations which we will interrogate to determine their appropriateness and will thereafter ensure that the responses are forwarded to the relevant stakeholders.



## 5. THE OVERSIGHT REPORT

This Oversight Report is for the financial year ended 30 June 2014. The Annual Report was presented to Council on 2015-01-29. The Annual Report included the reports of the municipal entities, namely, the Inkosi Albert Luthuli International Convention Centre (Pty) Ltd and the Durban Marine Theme Park (Pty) Ltd; the report of the Auditor-General on the group financial statements and the report on performance information of eThekweni Municipality and its entities.

## 6. ANNUAL REPORT CHECKLIST

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS   | COUNCIL CONSIDERATIONS AND QUESTIONS  | RESPONSES/COMMENTS   |
|---|---|--|
| <b>1. Financial Matters – Annual Financial Statements - Section 121 (3) MFMA</b>  | <b>Financial reporting matters to be considered</b>   |  |
| 121 (3)(a)<br>The annual financial statements (AFS) for the municipality and, if applicable, consolidated statements (with all entities) as submitted to the Auditor-General. | The AFS are to be in the form as required by the applicable accounting standards. MFMA Circular 18 with annexures, 23 June 2005, provides guidelines on the accounting standards for municipalities.<br><u><b>Have the required standards been met?</b></u> | <b>Yes</b><br>Refer to Volume Two, Page 351 of the Annual Report.  |
| 121 (3)(a)<br>121 (4)<br>121 (4)(b)   | The above applies also to the AFS of municipal entities.  | <b>Yes</b>   |
| 121 (3) (e) An assessment by the accounting officer on any arrears on municipal taxes and service charges, including municipal entities.                                      | Has an adequate assessment been included?<br><br>Is there sufficient explanation of the causes of the arrears and of actions to be taken to remedy the situation?<br><br>Is any other action required to be taken?  | <b>Yes</b><br>Refer to Note 6, Pages 32-33 of the AFS<br><br>Refer to Page 286, Paragraph 2.2 of the Annual Report.<br><br>The expeditious finalisation of the outstanding arrears of Government Departments and State Owned Entities. |

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS  | COUNCIL CONSIDERATIONS AND QUESTIONS  | RESPONSES/COMMENTS   |
|--|---|--|
| <p>121 (3)(g)<br/>Particulars of any corrective action taken or to be taken in response to issues raised in the audit reports.</p> | <p>The conclusions of the annual audit are:-</p> <ul style="list-style-type: none"> <li>✓ an unqualified audit opinion with or without management issues, which means that the financial statements are acceptable;</li> <li>✓ The objective of the municipality should be to achieve an unqualified audit opinion.</li> <li>✓ Taking into account the audit report, audit opinion and the views of the audit committee, council considered:- <ul style="list-style-type: none"> <li>• To what extent does the report indicate serious or minor financial issues?</li> <li>• To what extent are the same issues repeated from previous audits?</li> <li>• Is the action proposed considered to be adequate to effectively address the issues raised in the audit report?</li> <li>• Has a schedule of action to be taken been included in the annual report, with appropriate due dates?</li> </ul> </li> </ul> | <p><b>Yes.</b><br/>Refer to page 281, Paragraph 6 of the Annual Report</p> <p>The report indicates issues of concern regarding compliance with legislation as it relates to:- procurement and contract management; budgets and annual financial statements. In addition internal control weaknesses were evident as it relates to financial management.</p> <p>The issues are repeat findings from previous years</p> <p><b>No.</b> Refer to Items 1 and 2 of this Report. Recommendations in relation to the Audit Report.</p> <p><b>No.</b> But it is attached to this report as Annexure C.</p> |

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS  | COUNCIL CONSIDERATIONS AND QUESTIONS   | RESPONSES/COMMENTS  |
|--|--|---|
|  | <p>Note that actions taken on audit issues are to be reported to the provincial legislature, the MEC for Cooperative Government &amp; Traditional Affairs to report on any omissions by municipalities in addressing issues. Council should confirm that the audit report has been forwarded to the MEC.</p>   | <p>The audit report was forwarded to the MEC on 27<sup>th</sup> January 2015.</p>   |
| <p>121 (3)(f)<br/>An assessment by the municipality's accounting officer of the municipality's performance against measurable performance objectives for revenue collection from each revenue source and for each vote in the approved budget.</p> | <p>The budget of the municipality must contain measurable performance objectives for revenue from each source and for each vote in the budget, taking into account the IDP (MFMA s17(3)(b)). The accounting officer must include these objectives in the annual report and report on performance accordingly.</p> <p>Has the performance met the expectations of council and the community?</p> <p>Have the objectives been met?</p> <p>What explanations have been provided for any non-achievement?</p> <p>What was the impact on the service delivery and expenditure objectives in the budget?</p> | <p>Refer to Pages 342-343 of the Annual Report.</p> <p><b>Yes.</b> A 105% collection rate was achieved. (See page 239 of the Annual Report.)</p> <p><b>Yes.</b></p> <p>Not applicable.</p> <p>The Municipality has collected sufficient revenue to meet all its expenses including depreciation and the surplus is considered to be reasonable.</p> |
| <p>121 (3)(i)(k) Any information as determined by the municipality, the entity or its parent municipality.</p>   | <p>Review any other information that has been included in regard to the AFS.</p>   | <p>Not applicable.</p>  |

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS  | COUNCIL CONSIDERATIONS AND QUESTIONS  | RESPONSES/COMMENTS   |
|--|---|--|
| <b>1. Financial Matters – Annual Financial Statements - Section 121 (3) MFMA</b>   | <b>Financial reporting matters to be considered</b>   |  |
| 121 (3)(j) and 121 (4)(g)<br>Recommendations of the audit committee in relation to the AFS and audit reports of the municipality and its entities. | Have the recommendations of the audit committee in regard to the AFS and audit reports been adequately addressed by the municipality and/or the entity?<br><br>What actions need to be taken in terms of these recommendations?   | The Audit Committee was of the view that the AFS comply in all respects with the requirements of the MFMA, Treasury Regulations & GRAAP.<br><br>None.  |
| <b>2. Disclosures - Allocations received and made - Section 123-125 MFMA</b>   | <b>Considerations</b>   |  |
| 123 (1)(a)<br>Allocations received by and made to the municipality.  | The report should disclose: <ul style="list-style-type: none"> <li>✓ Details of allocations received from another organ of state in the national or provincial sphere.</li> <li>✓ Details of allocations received from a municipal, entity or another municipality.</li> <li>✓ Details of allocations made to any other organ of state, another municipality, or a municipal entity.</li> <li>✓ Any other allocation made to the municipality under Section 214(1) (c) of the Constitution.</li> </ul> Have these allocations been received and made? Does the audit report confirm the correctness of the allocations received in terms of DORA and provincial budgets? Does the audit report or the audit committee recommend any action? | <b>Yes.</b><br>Refer to Note 28, Pages 59-64 of the AFS.<br>Also refer to Appendix C on Page 109 of the AFS.<br><br><b>Yes</b><br>Refer to Note 16, Page 43 of the AFS<br><br>Not applicable<br><br><b>Yes</b><br><b>Yes.</b> Refer to Paragraph 6, Page 281 of the Annual Report<br><b>No</b> |

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|---|--|---|
| <p>125 (1)<br/>Information in relation to outstanding debtors and creditors of the municipality and entities.</p> | <p>Municipalities and entities are reminded of the requirement to include, in their annual financial statements, amounts owed to them and persistently delayed beyond 30 days, by national or provincial departments and public entities.</p> <p>It is also a requirement to report on whether the municipality or entity has met its statutory commitments, including the payment of taxes, audit fees, and contributions for pension and medical aid funds.</p> <p>Council should be satisfied that –</p> <ul style="list-style-type: none"> <li>✓ the information has been properly disclosed;</li> <li>✓ conditions of allocations have been met; and</li> <li>✓ that any explanations provided are acceptable.</li> </ul> | <p><b>Yes.</b> Refer to Notes 6 and 7, Pages 32-34 of the AFS.</p> <p>The Municipality is currently performing the housing function on behalf of the National and Provincial Government on a reimbursive/milestone basis. This in turn results in the Municipality having to “bridge finance” projects which adversely impacts on the municipality’s cash flow. We note with concern the substantial debt outstanding by the Provincial DOHS.</p> <p><b>Yes.</b> Refer to Note 5, Page 31; Note 20, Pages 45-52; Note 35 Page 70 of the AFS</p> |
| <p><b>2. Disclosures - Allocations received and made - Section 123-125 MFMA</b></p>                               | <p><b>Considerations</b></p>   |   |
| <p>123 (1)(c)<br/>Information in relation to the use of allocations received.</p>                                 | <p>Section 123 of the MFMA and MFMA guidance circular 11, require that the municipality provide information per allocation received per vote and include:-</p> <ul style="list-style-type: none"> <li>✓ The current year and details of spending on all previous conditional grants, for the previous two financial years. Information is to be provided per vote. (For example, municipalities must report on all</li> </ul>  | <p>Refer to Note 28, Pages 59-64 of the AFS.<br/>Also refer to Appendix F, Pages 314-315 of the Annual Report.</p> <p><b>Yes</b></p>  |

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS  | COUNCIL CONSIDERATIONS AND QUESTIONS   | RESPONSES/COMMENTS   |
|--|--|--|
|  | <p>transfers received from provincial housing departments for housing subsidy grants for three financial years, and indicate how such funds were spent, and for what projects.</p> <ul style="list-style-type: none"> <li>✓ Information stating whether the municipality has complied with the conditions of the grants, allocations in terms of section 214(1)(c) of the Constitution and allocations received from other than another organ of state. Where there is non-compliance, details of the reasons for non-compliance are to be provided.</li> <li>✓ Information on whether allocations under the DORA were delayed or withheld and the reasons advanced for this.</li> </ul> | <p><b>Yes</b></p> <p>An application for the rollover of unspent grants was made on the 29<sup>th</sup> of August 2014, for an amount of R842 million. However an amount of <b>R314million was not approved</b> and was paid back :<br/> Public Transport Infrastructure Systems Grant: <b>R 310 200 569.00</b> not approved because it was 2012/13 unspent rollover.<br/> Neighbourhood Development Partnership Grant: <b>R3 180 598.66</b> not approved with indication that 2014/15 allocation is sufficient.<br/> Disaster Grant: <b>R956 832.34</b> roll over not applied because commitment to spending could not be motivated.</p> |
| <p><b>3. Disclosures in notes to AFS</b></p>   | <p><b>Considerations relating to section 124</b></p>   |  |
| <p>Information relating to benefits paid by municipality and entity to Councillors, directors and officials.</p> | <p>Information on the following items is to be included in the notes to the annual report and AFS:-</p> <ul style="list-style-type: none"> <li>✓ salaries, allowances and benefits of political office bearers, Councillors and boards of directors, whether financial or in kind;</li> </ul>  | <p><b>Yes.</b></p> <p>Refer to Note 30, Pages 67-68 of the AFS.</p>  |

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS            | COUNCIL CONSIDERATIONS AND QUESTIONS   | RESPONSES/COMMENTS   |
|--|--|--|
|  | <ul style="list-style-type: none"> <li>✓ any arrears owed by individual Councillors to the municipality or entity for rates and services, which at any time were outstanding for more than 90 days, including the names of Councillors;</li> <li>✓ salaries allowances and benefits of the municipal manager, CEO of a municipal entity, CFO and every senior manager;</li> <li>✓ contributions for pensions and medical aid;</li> <li>✓ travel, motor car, accommodation, subsistence and other allowances;</li> <li>✓ housing benefits and allowances;</li> <li>✓ overtime payments;</li> <li>✓ loans and advances, and;</li> <li>✓ any other type of benefit or allowance related to staff.</li> </ul> <p>Council should be satisfied that –</p> <ul style="list-style-type: none"> <li>✓ the information has been properly disclosed;</li> <li>✓ conditions of allocations have been met; and</li> <li>✓ that any explanations provided are acceptable.</li> </ul> | <p>Refer to Note 42, Pages 82-83 of the AFS.</p> <p>Refer to Note 29, Pages 65-67 of the AFS.</p> <p>Refer to Note 29, Page 65 of the AFS.</p> <p>Refer to Note 29, Page 65 of the AFS.</p> <p>Refer to Note 29, Page 65 of the AFS.</p> <p>There were no loans or advances to Councillors/Directors/Staff.</p> <p>Refer to Note 29, Page 65 of the AFS.</p> |
| <b>4. Municipal Performance</b>                                  | <b>Considerations</b>  |  |
| The annual performance reports of the municipality and entities. | <p>Section 46, MSA requires municipalities to submit a performance report reflecting the performance of the municipality and each service provider, a comparison of the performance with targets set for the previous year and measures taken to improve performance. The report must form part of the annual report. Questions that may be considered are –</p> <ul style="list-style-type: none"> <li>✓ Has the performance report been included in the annual report?</li> </ul>  | <p><b>Yes.</b></p> <p>Refer to Pages 103-238 of the Annual Report.</p> <p><b>Yes</b></p>   |



| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS | COUNCIL CONSIDERATIONS AND QUESTIONS   | RESPONSES/COMMENTS   |
|---|--|--|
|   | <p>✓ Have all the performance targets set in the budgets, SDBIP, service agreements etc, been included in the report?</p> <p>✓ Does the performance evaluation in the annual report compare actual performance with targets expressed in the budgets and SDBIP approved for the financial year?</p> <p>In terms of key functions or services, how has each performed? E.g. have backlogs for water, sanitation, and electricity been reduced? What are the refuse collection volumes, library usage statistics etc?</p> <p>✓ To what extent has performance achieved targets set by council?</p> <p>✓ Is the council satisfied with the performance levels achieved?</p> <p>✓ Is the community satisfied with performance? Has a customer satisfaction survey been undertaken and, if so, how do the results align with the annual report contents? What were the outcomes of public consultation and public hearings?</p> | <p>The scorecard of the eight plans is included in the Annual Report and is accepted by the Auditor General as adequate reporting. There is no specific legislation that prescribes the inclusion of the budgets, SDBIP and service agreements etc in the Annual Report. (See narrative on Page 26 of the Annual Report)</p> <p>The scorecard that is incorporated in the Annual Report is audited by the Auditor General to ensure it is the finalised Performance Scorecard as part of the AG's year-end audit.</p> <p>Backlogs are reported on in the Annual Report. (See pages 105, 107, 110, 120)</p> <p>65.63% of Plan 3 service delivery targets were met. An overall achievement of 64.93% for all Scorecard targets was met.</p> <p><b>No</b></p> <p>A Municipal Services and Living Conditions survey was conducted for the 2013/2014 financial year. An overall achievement of 73.88% for all Scorecard targets was met.</p> <p>Housing – 72.6%, Water – 78.9%, Electricity – 66.4% and Refuse Removal – 71.2%.</p> |

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS | COUNCIL CONSIDERATIONS AND QUESTIONS   | RESPONSES/COMMENTS  |
|---|--|---|
|   | <ul style="list-style-type: none"> <li>✓ What actions have been taken and planned to improve performance?</li> <br/> <li>✓ Is the council satisfied with actions to improve performance?</li> <br/> <li>✓ Did the targets set in the budgets, SDBIP agree with the targets set in the performance contracts of the municipal manager and each senior manager?</li> <br/> <li>✓ Does the report evaluate the efficiency of mechanisms applied to deliver the performance outcomes?</li> <br/> <li>✓ Taking into account the audit report and opinion and the views of the audit committee, is performance considered to be efficient and effective?</li> <br/> <li>✓ To what extent have actions planned for the previous year been carried over to the financial year reported upon?</li> <br/> <li>✓ Have any actions planned in the reported year been carried over to the current or future years? If so are any explanations been provided by the municipal manager and are these satisfactory?</li> </ul> | <p>Free Basic Services (Electricity) Target 15.68% Achieved 14.48%<br/>The Unit has created new pamphlets to increase understanding of Free Basic Electricity.</p> <p>Free Basic Potable Water Target 4578 Achieved 2539. The Unit is proposing political and social support to address illegal connections.</p> <p>No. of houses built Target 7300 Achieved R6809 The Unit plans to work closely with the Engineering Services Department to enable the alignment and prioritisation of bulk services.</p> <p><b>No. However the measures to improve performance are noted.</b></p> <p>The performance contracts of the Municipal Manager and each senior manager is aligned to the Organisational Performance Scorecard</p> <p><b>Yes</b></p> <p><b>Yes</b></p> <p>The Performance Scorecard reflects a 5 year rolling plan, which provides for carryovers.</p> <p>The underachievement would be reported with reasons and targets not met would automatically be carried over. This is done in-year when the reports are submitted to the Audit Committee and Council.</p> |

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS                     | COUNCIL CONSIDERATIONS AND QUESTIONS  | RESPONSES/COMMENTS  |
|---|---|---|
| <p>Audit reports on performance.</p>                                      | <p>Section 45, MSA requires that the Auditor-General must audit the results of performance measurements, as part of the internal auditing processes and annually.</p> <p>Have the recommendations of internal audit been acted on during the financial year?</p> <p>Have recommendations by internal audit and/or the auditor-general been included in action plans to improve performance in the following year?</p>   | <p><b>Yes</b></p> <p><b>Yes</b></p>   |
| <p>Performance of municipal entities and municipal service providers.</p> | <p>The annual report of the municipality should provide an assessment of the performance of the municipal entities and all contracted service providers.</p> <p>This is in addition to the separate annual reports of the entities.</p> <p>The report should evaluate the effectiveness of these services and whether alternative mechanisms should be considered.</p> <p>Is the council satisfied with the evaluation and conclusions of the municipality?</p> <p>What other actions are considered necessary to be taken by the accounting officer?</p> | <p>Each Entity's performance report is included in the Annual Report (See pages 481-149 of the Annual Report for Ushaka Marine and Pages 688 to 689 of the Annual Report for the ICC).</p> <p>eThekwini provides all basic services as part of the Municipal Service.</p> <p>The 2 entities of the Municipality are the ICC and Ushaka are not contracted service providers and therefore this is not applicable.</p> <p><b>Yes</b></p> <p>None</p> |

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS                 | COUNCIL CONSIDERATIONS AND QUESTIONS  | RESPONSES/COMMENTS   |
|---|---|--|
| <b>5. General information</b>   | <b>The following general information is required to be disclosed in the annual report.</b>  |  |
| Relevant information on municipal entities.                           | The municipality should disclose all information relating to the municipal entities under the sole or effective control of the municipality. Information to be disclosed includes names and types of entities, members of the board, addresses, and contact details for entities, the purpose of the entity, the functions, and services provided the type and term of service level agreements with the entities.  | <b>Yes</b><br>Ushaka Marine Park – Refer to Pages 524-526 of the Annual Report<br>ICC - Refer to Pages 646-648 of the Annual Report. |
| The use of any donor funding support.                                 | <p>What donor funding has the municipality received?</p> <ul style="list-style-type: none"> <li>✓ Have the purposes and the management agreements for the funding been properly agreed upon?</li> <li>✓ Have the funds been used in accordance with agreements?</li> <li>✓ Have the objectives been achieved?</li> <li>✓ Has the use of funds been effective in improving services to the community?</li> <li>✓ What actions need to be taken to improve utilisation of the funds?</li> </ul> | <p>See Pages 248-249 of the Annual Report</p> <p><b>Yes</b></p> <p><b>Yes</b></p> <p><b>Yes</b></p> <p>None</p>                      |
| Agreements, contracts and projects under Private-Public-Partnerships. | Information similar to the details of municipal entities should be provided. Council should ensure that all details have been supplied.   | The Municipality does not have any Private-Public-Partnerships.  |
| Service delivery performance on key services provided.                | This may be a high level summary, in addition to detailed information on performance, which sets out overall performance under the strategic objectives of the municipality. Overall results on the strategic functions and services should be summarised. This should cover all services whether provided by the municipality, entities or external mechanisms.  | Refer to Chapter 3, Pages 103-227 of the Audit Report.   |

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS  | COUNCIL CONSIDERATIONS AND QUESTIONS   | RESPONSES/COMMENTS   |
|--|--|--|
| <p>Information on long-term contracts.</p>   | <p>Details of all long-term contracts including levels of liability to the municipality should be included.</p>  | <p>We have noted that due to the delays in establishing a centralised contract register accurate information on long-term contracts is not readily available and as such has not been included in the annual report.</p>   |
| <p>Information technology and systems purchases and the effectiveness of these systems in the delivery of services and for ensuring compliance with statutory obligations.</p> | <p>Details of significant IT activities should be outlined indicating the effectiveness of the IT projects and the quality of IT services.</p> <p>Council should consider how effectively the IT services support and facilitate performance of the municipality and whether value for money has been obtained.</p> <p>Details of any future IT proposals should be summarised. Council should comment and draw conclusions on the information provided.</p> | <p>We have noted that the Municipality's IT systems still reveal general control deficiencies in IT Security Management, User Access Management and IT Service Continuity.</p> <p>In addition the Municipality does not have an Information Technology (IT) Governance Framework.</p> <p>In the absence of an approved and communicated IT Governance Framework, there is an increased risk that IT functions will not be governed in a standardised manner across the Municipality. This could result in IT staff not having entity-wide IT governance standards to ascribe to. Furthermore, management may not have a framework or guidance to align to in order to adequately govern IT within the municipality.</p> <p>The undertaking by the Chief Information Officer to develop and implement an IT Governance Framework that is aligned to best practices was noted.</p> |

| INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORTS  | COUNCIL CONSIDERATIONS AND QUESTIONS  | RESPONSES/COMMENTS   |
|--|---|--|
| Capital plan for addressing infrastructure backlogs    | <p>A summary of the long-term capital plans and how these address the backlogs of services in the municipality should be provided.</p> <p>This should include details of types and scale of backlogs, projected cost implications, strategies to address the backlogs and plans proposed and/or approved. The summary here should cross reference to the performance reports in the annual report and also will be highlighted in the coming budgets.</p> <p>Council should consider whether the plans appropriately address the backlogs and are consistent with the strategic policy directions of council and needs of the community.</p>  | See Annexure D Attached.   |
| <b>6. Other considerations recommended</b>             |   |  |
| Timing of reports.                                     | Was the report tabled in the time prescribed?   | <b>Yes.</b>  |
| Oversight committee or other mechanism.                | What mechanisms have been put in place to prepare the oversight report?   | The Municipal Public Accounts Committee was delegated the responsibility of preparing the oversight report.  |
| Payment of performance bonuses to municipal officials. | <p>Refer to Section 57 MSA as amended. Bonuses based on performance may be awarded to a municipal manager or a manager directly accountable to the municipal manager after the end of the financial year and only after an evaluation of performance and approval of such evaluation by the municipal council. Preferably such evaluation should be considered along with the annual report. The basis upon which performance is evaluated for payment of bonuses should be reconciled with the municipal performance reported in the annual report.</p> <p>Have bonuses been paid based on achievements of agreed outputs and after consideration of the annual report by council?</p> | <p>Performance bonuses for the year under review have not yet been paid to any Section 57 Managers.</p> <p>Performance will be assessed based on achievements of agreed outputs and will only be paid after the adoption of the Oversight Report where applicable.</p> |

## 7. AUDIT REPORT

### 1. Procurement and Contract Management

We have noted the Auditor General's finding that goods and services of a transaction value above R200 000 were procured without inviting competitive bids, as required by regulation 19(a) of the Supply Chain Management (SCM) Regulations. In addition deviations were approved by the accounting officer even though it was not impractical to invite competitive bids, in contravention of SCM Regulation 36(1).

The municipality is still beset by supply chain management challenges, although these have improved considerably over the past two years; particularly awards in terms of Supply Chain Management Regulation 36 issues. The internal controls instituted to address the abuse of Regulation 36 appear to be bearing fruit. However, most Units now appear to be resorting to the extension of contracts in terms of Section 116(3) of the Municipal Finance Management Act; often erroneously.

We will continue to question all applications that do not follow proper procurement procedures and urge management to establish an effective central register for contracts which will improve contract management in the Municipality.

Hence,

#### COMMITTEE RECOMMENDS:

- 1.1 That the Deputy City Manager: Treasury be urged to expedite the establishment of an effective central register for contracts and contract management capacity; structures and automated tender management systems be developed and implemented to ensure effective contract management and sound financial and payment management processes.
- 1.2 That the review of the Municipality's Supply Chain Management Policy includes a definition of what constitutes a minor deviation as well circumstances that would warrant a deviation from the normal procurement process due it being genuinely impractical or due to an emergency; and not as a result of poor planning. This guidance is provided by Circular 68 of the Municipal Finance Management Act.
- 1.3 That it be noted that the root cause of excessive awards in terms of Supply Chain Management Regulation 36 appears to be the lack of strategic procurement planning and specific alignment to Service Delivery and Budget Implementation Plan elements driven by supply chain management processes, including amongst others contract management.
- 1.4 That the City Manager be requested to take disciplinary action against officials whose failure to plan accordingly results in awards having to be made in terms of Section 36 of the Municipality's Supply Chain Management Policy.
- 1.5 That Council improves the reporting of unauthorised expenditure, irregular expenditure as well as fruitless and wasteful expenditure; the ratification processes thereof also being streamlined.

## **2. Budgets**

The Auditor General has found material non-compliance with applicable legislation regarding financial matters. The total unforeseen and unavoidable expenditure incurred exceeded R15 million, which was in contravention of the municipal budget and reporting regulation 72.

As we concur with this finding

### **COMMITTEE RECOMMENDS:**

- 2.1 That management should review existing controls over the approval of contracts and ensure that all unforeseen costs are flagged, prior to being incurred, for immediate reporting and approval by Council and the requirement of an adjusted budget in terms of Section 29(3) of the Municipal Budget and Reporting Regulations.
- 2.2 That when the costs referred to in .1 above are picked up, management must look at areas for re-priorisation of existing programmes and projects.

## **3. Financial Management**

We have noted that there were inadequate processes and monitoring controls over financial transactions and disclosure relating to commitments, and the retirement benefit obligation provision. This has resulted in the correction of material misstatements that were identified during the audit.

The retirement benefit provision requires validation prior to inclusion in the annual financial statements. Pension liability is huge and unless financial provisions are carefully monitored and accurate, this has the potential for serious risk to the municipality. However, we have been assured that the matter is in hand and all stakeholders are aware of the potential risk; with internal controls having now been instituted to mitigate such risk.

Accordingly,

### **COMMITTEE RECOMMENDS:**

- 3.1 That the assurance by the Head: Expenditure that the required processes and control measures have now been instituted to ensure accurate disclosure relating to the retirement benefit obligation be noted.
- 3.2 That the Internal Audit Unit focuses specific attention to this matter.
- 3.3 That management implements proper processes to identify all commitments and ensure adequate disclosure thereof.



#### 4. Significant Uncertainties

The Auditor General has highlighted the disclosure in note 39 to the financial statements, that various legal claims amounting to R904, 89 million had been lodged against the municipality. The ultimate outcome of these matters cannot presently be determined and no provision for any liability that may result had been made in the financial statements.

Having interacted with the Legal and Compliance Services Unit we note that most of the matters are still pending in court and still to be determined. However, there are some that have been finalised since the disclosure was made at the end of June 2014. The disclosed amounts are the exact claims of the plaintiffs and not estimates of the Municipality's possible liability and all claims were disclosed notwithstanding the amount. This approach was agreed to between the Municipality and the external auditors after a workshop together with all panel attorneys.

To put the total figure into proper context, it is important to make an analysis of the disclosed legal claims. The total amount of R904,89 million is made up of 157 matters, of which only 25 claims are above the amount of R4 million each (15.9%). The total amount of these 25 claims is R898,05 million, which constitutes 99.2% of the total amount.

One claim amounts to R528,37 million, which constitutes 58.4% of the total amount of claims. The Municipality took a special plea of prescription in August 2013. Since then, there has been no further action taken by the plaintiffs.

Among the disclosed claims, two have been finalised, both of which amounted to R65.5m, and they were finalised on the basis of the Municipality paying an amount of R21.5m, for one matter, and no payment in respect of the other.

There are also a few claims of medical negligence amounting to about R46 million. The clinics concerned are not under the control of the Municipality.

There are also three cases where the dispute is about the value of compensation for expropriated land; these claims amount to R44 million.

The above analysis shows that these claims are not as dire as reported. However we would agree it is prudent to set aside funds for these claims although the Municipality may never be liable for some of them.

As we are in support of the current control measures in relation to legal claims,

#### COMMITTEE RECOMMENDS:

- 4.1 That it be noted the Legal & Compliance Services Unit is attending to legal claims and protecting the interests of the Municipality; in addition the Executive and Audit Committee's monitor significant legal cases on a regular basis.
- 4.2 That the Legal & Compliance Services Unit implements processes to estimate the possible legal liability as a result of significant legal matters; these matters either being provided for or disclosed as contingent liabilities, depending on the merits of each matter.

## **5. Material Losses and Impairments**

### **5.1 Water losses:**

As disclosed in note 45 to the financial statements, the municipality has incurred material water losses amounting to R602, 6 million (131 021 634 kl).

We are most concerned about these losses and have had extensive interviews with the Water and Sanitation Unit in this regard during which we interrogated the Unit's plans to reduce these losses to an acceptable international standard of 25%. The Head: Water and Sanitation advises that approximately R1.2856 billion will be required over the next five (5) years for the non-revenue water programme which will, inter alia, include replacement of aging infrastructure; leak detection and repair; pressure management; valve maintenance and billing improvements.

We will continue to monitor the water losses closely and establish progress in the roll out of the proposed plans.

Therefore,

#### **COMMITTEE RECOMMENDS:**

- 5.1.1 That the Head: Water and Sanitation produces a detailed action plan of how the reduction will be achieved; with each project being accompanied by a specific business case, including relevant feasibility studies.
- 5.1.2 That the Head: Water and Sanitation be provided with all the necessary resources to enable the reduction of the water losses to an acceptable international standard of 25%.
- 5.1.3 That the Human Settlements & Infrastructure Committee be requested to provide oversight of the water loss reduction programme.

### **5.2 Bad Debt Provision:**

As disclosed in note 6 to the financial statements, the municipality had raised a provision for bad debt impairments of R2, 01 billion (2013: R1, 99 billion) on consumer debts as the recoverability of these amounts were doubtful.

Much of this debt stems from the Ingonyama Trust land and properties. While some issues have been resolved, negotiations over liability will continue for the foreseeable future. We will continue to monitor these negotiations.

Accordingly,

#### **COMMITTEE RECOMMENDS:**

- 5.1 That the Finance & Procurement Committee be requested to provide oversight of the measures being undertaken to reduce the consumer debts.
- 5.2 That the intergovernmental dispute prevention and settlement practice guide on conflict management be consulted on steps to follow in resolving this matter (Government Gazette No. 29845 refers.)

## **6. Material underspending of conditional grant and capital budget**

We have noted as disclosed in notes 28 and 50 to the financial statements, the municipality had materially underspent on conditional grants received from the National Department of Transport by R819,69 million in respect of the Integrated Rapid Public Transport Network (IRPTN) and on its capital budget by R505,36 million; as a result of delays experienced in Go Durban Projects and a delay in the implementation of IRPTN grant funded projects.

This is a substantial long-term project which has recently been initiated. The underspending was due to prudent detailed planning which has delayed the commencement of the project as well as other reasons which were beyond the control of the officials concerned. However the project is now in the implementation stage and the funds are more than likely to be spent in the current financial year.

We have noted the Audit Committee's concerns about the project including the view that once the system was operational, the costs of operating it would prove burdensome to the City as experienced by other Cities that had implemented the project.

Accordingly,

### **COMMITTEE RECOMMENDS:**

That the Executive Committee be requested to monitor and ensure the sustainability of the Integrated Rapid Public Transport Network (IRPTN) both from a capital and operational cost perspective.

## **7. Pre-determined Objectives**

Whilst the Auditor General did not raise material findings on the usefulness and reliability of the reported performance information for the selected objectives, we are concerned by the insufficient effort or planning by Units to ensure the achievement of performance targets (Pages 28 to 102 of the Annual Report refer).

We will continue to interrogate the Heads of Units that consistently fail to reach their performance targets.

Therefore,

### **COMMITTEE RECOMMENDS:**

- 7.1 That Support Committees ensure the interrogation of performance information when it is submitted quarterly and hold plan owners accountable for the non-achievement of targets.
- 7.2 That a root cause analysis be undertaken for continued non-performance against certain Plans and support given where required.
- 7.3. That the City Manager exercises oversight over the mid-term adjustment process to avoid deletion or amendment to targets and key performance indicators that cannot be met.

## **8. Municipal Entities**

We noted with pleasure the audit outcomes of the two Municipal Entities

Accordingly,

### **COMMITTEE RECOMMENDS:**

That the Chief Executive Officers of the Durban Marine Theme Park and the International Convention Centre be congratulated for the Entities' achievement of financially unqualified audit outcomes with no other matters; a clean audit opinion.

## **9. Clean Audit Outcome**

Senior Management, the Accounting Officer and the Mayor made the following commitments to the Auditor General, which are expected to be achieved by 30 June 2015:-

- a) Intensify oversight over the controls, processes and policies pertaining to the awarding of section 36 contracts and compliance with section 116(3) of the MFMA;
- b) Appropriate disciplinary action arising from investigations to be taken against councillors and employees that transacted with the municipality;
- c) Monitor progress with the design and implementation of IT governance framework and IT controls with EXCO performing oversight through the quarterly reporting by the Audit Committee; and
- d) Review of controls, processes and formalised policies over transactions within the Housing Unit.

Having noted the above commitments,

### **COMMITTEE RECOMMENDS:**

- 9.1 That the tone at the top be set by Council towards the achievement of a clean audit outcome and enforcement of the Pledge on anti fraud and corruption; "we do right even when nobody is watching".
- 9.2 That the key role players in the achievement of a clean audit outcome sign specific pledges to this effect; namely the Mayor, Executive Committee Members and Chairpersons of Portfolio Committees, City Manager, Deputy City Managers, Heads and all officials at a management level.
- 9.3 That the City Manager and relevant Senior Management sign performance agreements with a specific focus on clean audit outcome initiatives.

## 8. ANNUAL REPORT

### 1. Revenue Management System (RMS)

We have noted that the go-live date of 2014-06-01 has not been achieved and the system is still not fully operational.

The Audit Committee's reservations about the Revenue Management System (RMS) as it is of the opinion that the system will still result in dependency on external consultants as the project has not developed internal skills contrary to its initial intentions we noted.

The data migration challenges continue even though it appears that they are coming to an end. We will continue to monitor the progress of this troubled billing system.

However,

#### COMMITTEE RECOMMENDS:

That a total review of the Revenue Management System as recommended by the Audit Committee be undertaken to establish the likelihood of the go-live date being achieved and whether it is still in Council's interests to proceed with the project.

## CONCLUSION

The Municipal Public Accounts Committee commends Council, the City Manager, the Senior Management Team and all staff at eThekweni Municipality on the strides made towards good governance. However, compliance with legislation as it relates to procurement and contract management; budgets and annual financial statements requires attention. In addition internal control deficiencies regarding financial management are an area for improvement. The 2014/2015 financial year must target focussed attention in these areas. In this regard, the Municipal Public Accounts Committee will be monitoring the implementation of the Action Plan developed by the Management Team in response to the Auditor-General's findings including commitments made by the Mayor and the City Manager to address audit outcomes in the prior and current years. Other areas that Committee will be monitoring are water losses; bad debt - particularly that of the state and its entities; the achievement of planned targets as well as commitment to good governance principles.

Having performed the following tasks:-

- ✓ Reviewed and analysed the Annual Report;
- ✓ Held public engagements with Amakhosi, Informal Business, Civic Organisations and the Durban Chamber of Commerce and Industry;
- ✓ Received and considered the views and comments of Amakhosi; Civic Organisations; and Business from the public consultation process;
- ✓ Received and considered Council's Audit Committee views and comments on the annual financial statements and the performance report; and
- ✓ Prepared the draft Oversight Report, taking into consideration, the views and inputs of representatives of the Auditor-General, the Council's Audit Committee and public engagements;

The Municipal Public Accounts Committee has pleasure in presenting the Oversight Report to Council for consideration;

### COMMITTEE RECOMMENDS:

1. That Council having fully considered the Annual Report of the eThekweni Municipality for the 2013/2014 Financial Year, adopts the Oversight Report for the 2013/2014 Financial Year.

2. That Council approves the Annual Report of the eThekweni Municipality for the 2013/2014 Financial Year without reservations.
3. That the Oversight Report be made public in accordance with Section 129(3) of the Municipal Finance Management Act 56 of 2003.
4. That the Oversight Report be submitted to the Provincial Legislature in accordance with Section 132(2) of the Municipal Finance Management Act 56 of 2003.

## ANNEXURES

- A City Integrity and Investigations Cases
- B Report on the Public Participation Responses for eThekweni Municipality's Annual Report 2013/2014
- C Action Plan on Auditor General Findings as per Audit Report for year ending 30 June 2014
- D Capital Plan to Address Infrastructure and Service Delivery Backlogs