

**MINUTES OF THE MEETING OF THE PUBLIC ACCOUNTS STANDING COMMITTEE
HELD ON WEDNESDAY 2 FEBRUARY 2005 IN THE MAIN CHAMBER,
LEGISLATURE COMPLEX AT 09H00**

ATTENDANCE

J M Downs (Chairperson)
P McKay
B F Scott
M A Kubheka
L Johnson
R M Burrows
Dr L P H M Mtshali
S B Ngidi
F X Gasa
V C Xaba
M A Tarr
T Jeebodh
J Slabbert
J F Aulsebrook
P Govender

PREMIER'S PORTFOLIO COMMITTEE

L R Mbuyazi

TRANSPORT PORTFOLIO COMMITTEE

O Singh (Chairperson)
R Keys

COMMITTEE SUPPORT STAFF

B F Khanyile
N Sukraj

DEPARTMENT OF TRANSPORT

R Govender (Chief Financial Officer)
W Evans

GAMBLING BOARD

Prof S V Nzimande (Chairman of the Board)
T F Zulu (Acting Chief Executive Officer)
C Zwane (Acting Chief Financial Officer)

KWAZULU-NATAL TAXI COUNCIL

B C Ngiba (Chairman of the Board)
B W Ngubane (Ngubane and Co.)
B Zondi (Chief Executive Officer)

N Mkheme
J M Lekokotla

OFFICE OF THE AUDITOR-GENERAL

B R Wheeler
D Sewrathan
S Mnguni
D Reddy
R Rabichand

APOLOGIES

E S Mbatha
M R Mzobe
A J Hamilton

Recording Secretary: S Engelbrecht

1. OPENING AND WELCOME

After an opening prayer rendered by Dr L P H M Mtshali at 09:10, the meeting was declared open. The Chairperson welcomed the representatives of the Gambling Board to the meeting.

2. HEARING WITH THE GAMBLING BOARD ON THE AUDIT OF THE 2003/2004 FINANCIAL STATEMENTS OF THE BOARD

The Auditor-General tabled a briefing document for the information of the committee. The committee agreed that, due to the nature of the 2003/2004 audit report of the Gambling Board, it would not be necessary for the staff of the Auditor-General to give a formal briefing at this meeting.

At this stage the representatives of the Gambling Board took the oath.

The Acting CEO addressed the committee and gave some information on the problems and challenges, which the Gambling Board had faced during the year under review, particularly with regard to financial management.

2.1 *Matters not affecting the financial statements: Fixed Assets*

(Item 4.1.1 of the report of the Auditor-General)

Noting item 4.1.1 of the report of the Auditor-General and that the Acting CEO had advised that this matter was being addressed and that a fixed asset register would be completed in the near future,

The committee resolves:

That the Accounting Authority of the Gambling Board report by 31 March 2005 on progress made in finalising a complete and accurate fixed assets register for this public entity.

2.2 Investments

(Item 4.2.1 of the report of the Auditor-General)

It was noted that this matter had been discussed in the Finance and Economic Development Portfolio Committee and that a resolution had been taken by that committee to address certain weaknesses in the legislation governing public entities.

(NOTE: The resolution is quoted below for reference purposes:

Noting: The reported refusal of the KZN Gambling Board to account to the Department of the Premier, and the reported failure of AMAFA AkwaZulu- Natali to abide by the resolution 29 of the Finance Portfolio Committee passed in the House in May 2003.

The House hereby resolves:

For the Director-General of the Department of the Premier, together with the Legal Unit of the KZN Provincial Legislature, to review all provincial public entities in KwaZulu-Natal, and draft legislative amendments to be passed in the February 2004 sitting of the KZN Provincial Legislature, which aims to:

Bring the financial management and control of these public entities in line with the PFMA; and

Tighten up the lines of reporting and accountability to their respective MECs, departments and the KZN Provincial Legislature.

The Director-General must report progress to the Finance Portfolio Committee by 31 January 2004.

(Finance Resolution passed by the House on 5 December 2003)

It was agreed that the above resolution must be pursued by the Finance and Economic Development Portfolio Committee.

The Acting CEO advised that he had had written communication with the Corporation for Public Deposits and was awaiting their advice about transferring the surplus funds from the ABSA account to the CPD.

The committee resolves:

That the Accounting Officer in the Department of the Premier report by 31 March 2005 on the status of the surplus funds invested in an ABSA account by the Gambling Board and the transfer of that money to the CPD in terms of Treasury Regulation 31.3.3 issued in terms of the Public Finance Management Act, 1999. **(See item 2.4 below)**

2.3 Irregular expenditure

Noting item 4.2.2 of the report of the Auditor-General and that if funds were to be recovered in this case the board would be the responsible authority;

The committee resolves:

That the Accounting Officer in the Department of the Premier report by 28 February 2005 on how three board members were appointed to the Gambling Board who did not qualify in terms of Section 9(b), (e) and (j) of the KZN Gambling Board Act, 1996 (Act No. 10 of 1996), how was this corrected and was the Premier's department aware of this when the members were appointed.

2.4 Board members

(Item 4.2.3 of the report of the Auditor-General)

The importance of proper follow-up and reporting in terms of the resolution of the Finance Portfolio Committee quoted under item 2.2 above was raised again. This would allow for public entities to be brought into line with the provisions of the Public Finance Management Act, 1999.

The committee resolves:

That the Accounting Officer in the Department of the Premier report by 30 April 2005 on progress made in the implementation of Resolution 5 of the Finance Portfolio Committee adopted in the House on 5 December 2003.

2.5 Appointment of permanent staff to key positions

Noting that the Chairman of the board, the Chief Executive Officer and the Chief Financial Officer were all acting in their respective posts,

The committee resolves:

That the Accounting Authority report by 28 February 2005 on progress made in appointing permanent staff in these positions.

2.6 Audit committee

(Item 4.2.4 of the report of the Auditor-General)

The committee expressed its displeasure at the non-compliance by the Gambling Board with Treasury Regulation 27.1.1 and 27.1.6 issued in terms of Section 51(1)(a)(ii) of the Public Finance Management Act, 1999 regarding the establishment and proper functioning of an Audit Committee.

The committee resolves:

1. That the Accounting Authority of the Gambling Board report by 28 February 2005 on the following matters:

1.1 The terms of reference of the Audit Committee, which must deal adequately with its membership, authority and responsibilities.

1.2 The schedule of meetings for the Audit Committee in the 2004/2005 financial year (there must be at least four meetings of the committee during each financial year)

1.3 The meetings of the Audit Committee, which took place during the 2003/2004 financial year.

2.7 Internal Controls

(Item 4.2.5 of the report of the Auditor-General)

The Acting CEO advised that the budget for employment of staff of the Gambling Board was inadequate. The board was not fulfilling its function of monitoring casinos and illegal gambling. It was also not possible to assure the Legislature that maximum revenue was being collected in respect of gambling in the province. Research into other gambling boards in the country showed that the budgets of the majority of boards were approximately 10% of revenue collected. This matter was being discussed with the Department of the Premier to find solutions to this problem.

The committee expressed its concern that monitoring and revenue collection were being neglected due to insufficient funding of the Gambling Board.

The Auditor-General suggested that a performance audit of the Gambling Board be done to look at the operations of the board and the resources which they have to perform those operations.

The committee resolves:

1. That the Acting Chief Executive Officer of the Gambling Board provides the committee with the following information by 28 February 2005:

1.1 A summary of the research, which was conducted into the funding of other Gambling Boards in the country.

1.2 An organogram of the staff complement of the Gambling Board showing vacancies and acting appointments.

2. That this resolution be forwarded to the Premier's Portfolio Committee and the Finance Portfolio Committee for further consideration.

3. 2003/2004 FINANCIAL STATEMENTS OF THE GAMBLING BOARD

There was no discussion on the financial statements.

4. CLOSURE

There being no further items for discussion with the Gambling Board the hearing was closed 10:05.

5. OTHER UNLISTED PUBLIC ENTITIES – OVERSIGHT ROLE OF THE PUBLIC ACCOUNTS COMMITTEE

The committee resolves:

1. That the Legal Adviser reports on all unlisted public entities, which presently exist.
2. That the Chairperson writes to all departments requesting that they submit a list of all listed and unlisted public entities which are funded through the departments.

6. MINUTES OF PREVIOUS HEARINGS

The minutes of the following hearings were confirmed with amendments, which were made in the final version of the minutes:

20 October 2004

22 October 2004 – amendments: The apology from Dr L P H M Mtshali to be recorded, the apology recorded for B F Scott to be deleted, the figures recorded under item 8, paragraph 8 be checked for correctness.

25 October 2004 – amendment: Item 6.3, paragraph 3 to be amended to read: *The Chief Financial Officer advised that the funds necessary to cover the agreed amount claimed ...*

7. MINUTES OF 28 JANUARY 2005: HEARING WITH ITHALA DEVELOPMENT FINANCE CORPORATION

7.1 Apologies

Discussion took place on the need to have a separate section under apologies for those members of the committee who were absent because they were attending other meetings. It was agreed that this matter would be raised with the Executive Board. In this regard, the apologies of J Slabbert, F X Gasa, L Johnson and P Govender were noted for the meeting of 28 January 2005 as they were attending the public hearings of the Finance Portfolio Committee on the Liquor Bill, held in Port Shepstone on that day.

7.2 Cowslip Special Purpose Vehicle to facilitate the building of the Inkosi Albert Luthuli Central Hospital

Further discussion took place on this matter and it was agreed that, in view of the problems discussed in the meeting of 28 January 2005 regarding the financial accountability of Cowslip, the Finance Portfolio Committee be requested to look into this matter further.

8. UPDATED LIST OF PUBLIC ENTITIES

It was agreed that an updated list of public entities be made available to the committee and that the new list, which was released by National Treasury each year, also be made available as soon as it is released.

9. ROLE AND FUNCTION OF THE KWAZULU-NATAL TAXI COUNCIL

Discussion took place on the role and function of the Taxi Council. The committee noted that the council had a large budget for staff, which consisted of only nine people, and administration but only a small percentage of their funding was used for projects.

The committee also noted the numerous other regulatory bodies that undertook similar functions as the Taxi Council, as listed on page 138 of the 2003/2004 annual report of the Department of Transport.

Following discussion on this matter, **the committee resolves:**

1. That the matter of the role and function of the KwaZulu-Natal Taxi Council and appropriate performance measures be discussed in the Transport Portfolio Committee in order to ensure that value for money is achieved in the functioning of this entity.
2. That, in the pre-budget meetings, the Transport Portfolio Committee pick up on the matter of the responsibilities of the Department of Transport to the Taxi Council in terms of the Public Finance Management Act, 1999

10. HEARING WITH THE KWAZULU-NATAL TAXI COUNCIL ON THE AUDIT OF THE 2003/2004 FINANCIAL STATEMENTS OF THE COUNCIL

The financial consultants to the Taxi Council tabled a report addressing the qualification and emphasis of matters raised in the report of the Auditor-General. The committee noted the responses contained in this report, which addressed each of the items below.

10.1 *Qualification: Personnel expenditure: Employee tax*

(Item 3.1 of the report of the Auditor-General.)

It was noted that the Taxi Council employees were now registered with SARS to pay tax and all taxes were being paid monthly. Negotiations were underway with SARS not to levy penalties and interest for the tax which was paid late. All employees had agreed to pay off the tax which they owed, by deduction from their salaries each month.

The committee resolves:

That the Accounting Authority of the KwaZulu-Natal Taxi Council report by 31 March 2005 on the final outcome of this matter.

10.2 *Asset management*

(Item 5.1.1 of the report of the Auditor-General.)

It was noted that a complete asset register had been prepared for all assets in the Durban office of the Taxi Council and that the Department of Transport was assisting the council in adopting the asset management system, which was being implemented in all departments of the province.

The Auditor-General stated that the asset management system implemented by the council must comply fully with Generally Accepted Accounting Practice.

The committee resolves:

That the Accounting Authority of the KwaZulu-Natal Taxi Council report by 31 March 2005 on the adoption and implementation of an asset management system for the assets owned by the Taxi Council.

10.3 Expenditure

(Item 5.1.2 of the report of the Auditor-General)

It was noted that the Auditor-General had only been provided with the responses of the financial consultant at this meeting and would need some time to look at these responses and discuss them with the consultant.

Regarding signatories to cheque payments made by the Council,

The committee resolves:

1. That the Accounting Authority of the KwaZulu-Natal Taxi Council be advised that members of the board of the Taxi Council cannot also be signatories to cheque payments, this must be an administrative responsibility in order to allow the board to exercise its oversight responsibility correctly.
2. That, for the same reasons mentioned above, no employee of the Taxi Council can also be an employee of the Taxi Council.

10.4 Appointment of a Chief Financial Officer

Noting, that the committee believed that it was inappropriate for the financial consultant of the Taxi Council to respond to questions from the committee on financial systems, which the consultant was putting into place for the Taxi Council.

The committee resolves:

That the Accounting Authority of the KwaZulu-Natal Taxi Council report by 31 March 2005 on progress made in the appointment of a Chief Financial Officer.

10.5 Personnel expenditure: Payroll record

(Item 5.1.3 of the report of the Auditor-General.)

Noting that expenditure on salaries would be unauthorized if there was no payroll in place from the date that the Taxi Council become autonomous and that salaries of staff and salaries of board members must be reflected separately in the financial statements;

The committee resolves:

1. That the Accounting Authority of the KwaZulu-Natal Taxi Council submit to the Auditor-General the payroll records that have been kept to date for the Taxi Council.

2. That the outstanding payroll records be created as a matter of urgency and also be submitted to the Auditor-General.
3. That the Accounting Authority of the KwaZulu-Natal Taxi Council report by 28 February 2005 on:
 - a. How the salaries of the staff and the members of the board are reflected in the financial statements and the amounts allocated to each of these costs.
 - b. How subsistence and transport costs and meeting fees of board members are calculated.
 - c. A breakdown of the money paid to consultants and advisory services and security services as reflected in the financial statements and whether value for money was received.

10.6 **Minutes of committee meetings**

(Item 5.2 of the report of the Auditor-General.)

It was noted that minutes were now being prepared for each meeting of the Taxi Council.

10.7 **Non-compliance with the agreement with the Department of Transport and the Public Finance Management Act, 1999**

(Item 5.3 of the report of the Auditor-General.)

10.7.1 **Audit committee**

It was noted that, according to the response of the financial consultant, the Audit Committee was formed during the 2004/2005 financial year, however, the committee had not yet met. This was in contravention of the Public Finance Management Act, 1999 and if any losses were experienced as a result of there being no Audit Committee, the board would be responsible for these losses.

The committee resolves:

That the Accounting Authority of the KwaZulu-Natal Taxi Council convene at least one meeting of the Audit Committee before 31 March 2005 and report on the schedule of meetings for the committee for the 2004/2005 financial year, noting that the committee must meet at least four times during that 12 month period.

10.7.2 **Internal audit**

(Item 5.3 of the report of the Auditor-General.)

Noting that Provincial Treasury would be assisting the Taxi Council with the internal audit function,

The committee resolves:

That an internal audit of the finances of the Taxi Council be undertaken before the end 31 March 2005.

10.7.3 Procurement

(Item 5.3 of the report of the Auditor-General.)

The committee expressed its concern at the fact that no procurement policy existed for the Taxi Council and yet payments in respect of procurement were being made on a regular basis.

10.7.4 Appointment of Financial Consultants

The committee resolves:

That the Accounting Authority of the KwaZulu-Natal Taxi Council report by 28 February 2005 on the terms of reference of the financial consultants appointed by the council, steps taken to monitor the contract with the consultants and sign off delivery of services by the consultant.

11. PREPARATION OF FINANCIAL STATEMENTS AND DISCLOSURE OF REMUNERATION OF BOARD MEMBERS

The committee resolves:

1. That the Accounting Authority of the KwaZulu-Natal Taxi Council be advised that:

a) The South African Statements of Generally Accepted Accounting Practice must be adhered to in the preparation of the financial statements of the Taxi Council and in the disclosure of the salaries paid to members of the board of the Taxi Council.

b) That the accounting policy of the Taxi Council must be attached to the financial statements.

12. TRANSVERSAL MATTER: REMUNERATION OF BOARD MEMBERS OF PUBLIC ENTITIES

The committee resolves:

1. That, in conjunction with the Auditor-General, a questionnaire be drawn up and sent to all public entities requesting information on all forms of remuneration paid to board members.

2. That further consideration be given to formulating a uniform approach to this once the required information has been obtained.

13. AUTONOMY OF THE KWAZULU-NATAL TAXI COUNCIL FROM THE DEPARTMENT OF TRANSPORT

The committee noted its dismay at the manner in which the Taxi Council was separated from the Department of Transport with little or no support from the department in setting up proper financial controls.

The committee resolves:

1. That the Chairperson write to the MEC for Transport, Community Safety and Liaison and the Accounting Officer of the Department of Transport to raise the concern of the committee on this matter and to insist that the matters raised in the 2003/2004 report of the Auditor-General, as discussed above, be rectified and that the department provide assistance to the KwaZulu-Natal Taxi Council to set up the necessary financial systems and controls by 31 March 2005.
2. That the above letter also advise that, in terms of Section 38(1)(j) of the Public Finance Management Act, 1999, the Accounting Officer of the Department of Transport must be satisfied that the Taxi Council has proper accounting processes in place before funds are transferred to that entity at the beginning of the 2004/2005 financial year.

14. CLOSURE

There being no further items for discussion, the meeting was declared closed at 12:55.

CERTIFIED AS THE TRUE RECORD OF PROCEEDINGS

CHAIRPERSON

DATE

(Minutes confirmed at a meeting on 9 February 2005. Proposed: S B Ngidi, seconded: B F Scott.)