**Responses to allegations laid against KwaDukuza Municipality by Whilst-blower with a conscience**

**Narrative:** KwaDukuza municipality recognises that there is a concerted programme to tarnish the image of the mayor of KwaDukuza over recent allegations to undermine her successes. Since her installation to office, the mayor has come to be well known in the public domain as the leader of the ‘clean governance agency’ due to her robust approach in fighting fraud and corruption. It is worth recalling the fact that it has been for the first time that KwaDukuza for the 2021-2022 financial year was able to obtain an Unqualified Audit Opinion with no findings on Supply Chain Management or Procurement management processes. This means that all tenders which were awarded during the beginning of her Term of Office were executed in compliance with Municipal Finance Management Act (MFMA) and relevant legislation and done correctly so. Irregular expenditure is at a remarkable downward spiral. This could not have been possible without the support of the Accounting Officer and his team.

The report from the Auditor General (AG) also found that there were no findings on Performance Management, and such successes have created anger and despair to certain sections of the community. This has therefore led to a several attacks against the mayor and her administration and this is evidenced by the number of unfounded allegations against her office which are characterised by serious distortion of facts. It is in this sense that KwaDukuza fully rejects such distortion which are malicious and polemic. We view these allegations as a serious contentious rhetoric intended to undermine the good service record of the municipality that is led by a level-headed mayor who upon her installation to office waged a war against corruption. This is also a concerted effort to create instability within all categories of the council and administration to lead the public to slip into an echo chamber that would reinforce false imagination and to portray a negative image about the municipality and its leaders. With the following responses, The whistle-blower with a conscience is unknow at this but this is someone who holds extreme views about KwaDukuza and has been strongly economical with the truth for having created serious misconception of facts in a world that has accepted truth to be as strange as fiction.

|  |  |
| --- | --- |
| **Whistle-blowers Allegations**  | **KwaDukuza Municipality Response**  |
| 1. During March 2019, KwaDukuza Municipality experienced storm damages to various infrastructures. The Municipal Manager (Mr NJ Mdakane), using regulation 36 of the Supply Chain Management Policy (“SCMP”), appointed various service providers to attend to the repairs of certain infrastructure. All these appointment bypassed the Chief Financial Officer (“CFO”) Shamir Rajcoomar The appointments were handled between the offices of the Municipal Manager(“MM”) and the Senior Manager Civil Engineering and Human Settlements. The council approved (“SCM”) policy of the municipality specifically requires that any proposed regulation 36 appointment must be provided to the (“CFO”) first for establishing the bonafides of a regulation 36 appointment. This was never done in these cases. The regulation 36 was only provided to the (“CFO”) some two months (around May 2019) after the appointments were made, and at a time when the first payments needed to be made to various service providers. The (“CFO”) expressed his reservations as to the appointments made and did not support the appointments. The expenditure was subsequently disclosed as irregular expenditure due to non- compliance with the requisites of a regulation 36 appointment. This was audited by the Auditor General and they supported the stance that the appointments were irregular and therefore the subsequent expenditure was irregular expenditure. ( Annex D) . Furthermore, the appointments were made in contravention of section 15 of the (“MFMA”) in that, when the appointments were made, no budgets existed for this expenditure. The approximate value related to these regulations 36 appointments was in the order of R30m and represents a material amount for the municipality. During 2019, the Finance department picked up further concerns and irregularities based on the following: a) Quality of the infrastructure that was constructed in relation to the Ward 5 Bridge. Essentially, there was no damage to the bridge super structure itself but there was damage to the road leading up to the bridge. However the appointment was for the rehabilitation of the bridge at a cost that was far in excess of new bridges that were constructed. b) Projects costs that seemed highly excessive. c) Bills of quantities that did not appear to reconcile to what was purported to what had been done. A site inspection was conducted by the Assets Management Unit of Finance and various other concerns were noted, the concern were reduced to writing by the (“CFO”) and hand delivered to the Municipal Manager and Director Internal Audit. Refer to (Annexure c)
 | The Supply Chain Management Regulations of 2005 which supersedes any local developed policy, clearly empowers the accounting officer (municipal officer) to deviate from normal SCM process, in cases of emergency. It does not empowers CFO to have VETO rights on section 36, process. The regulations states the following:***“36. Deviation from, and ratification of minor breaches of, procurement processes***1. ***A supply chain management policy may allow the* accounting officer,**
2. ***To dispense with the official procurement processes established by the policy and to procure any required goods or services through any convenient process which may include direct negotiations, but only:***
3. ***In an emergency,***
4. ***If such goods or services are procured or available from a single provider only,***
5. ***for the acquisition of special works of art or historical objects where specifications are difficult to complete,***
6. ***acquisition of animals for zoos, or***
7. ***in any other exceptional case where it is impractical or impossible to follow the official procurement processes, and***
8. ***to ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.***
9. ***The* accounting officer *must record the reasons for any deviations in terms of subregulation (1)(a) and (b) and report them to the next meeting of the council or board of directors in the case of municipal entity, and include as a note to the annual financial statements.***
10. ***Subregulation (2) does not apply to the procurement of goods and services contemplated in regulation 11(2).”***

Therefore, the Accounting Officer (Municipal Manager) is ultimately delegated by law to approve or disapproved any deviation from an SCM process, without being VETOD by the CFO or any other official. Any elevation of the role of the CFO, in Section 36 is a big fuss, condescending and unfounded. It is unlawful, as it might not comply with the Municipal Manager delegation of authority by council, various pieces of legislations, regulations and council policies. As per Clause 2 of the SCM regulations, the Municipal Manager reported the matter to council and the matter was referred to the Municipal Public Accounts Committee for further investigation. The MPAC rejected the initial report presented by then ED: Civil Engineering and Human Settlements and requested the accounting officer to appoint an independent investigator to investigate the matter. A reputable and experienced engineering consulting firm was appointed to verify the claims made by the CFO based on information from his personal and private friends which he referred to them as local engineers. The report done by an independent company (GIBB) was presented to MPAC and site visits were conducted by the MPAC. After a three months investigation of the matter, MPAC recommended to council for the report to be accepted.The Municipal Manager and Director :Internal Audit considered the CFO’s memorandum and acted upon it. The CFO has failed until the day of his suspension by the council to disclosed the private engineering company he used to confirmed his suspicious. It was an unusual step for the CFO to source service providers to assist him pro-bona as he claimed, to uncover the allegations. The Municipal Manager was also concerned that the CFO’s conduct might compromise the municipality by finding itself involved in the commercial spats between engineering consulting companies. The CFO has all the rights, if he believes that the report by the engineering company (GIBB) is not credible, to report it to law enforcement agencies and also the professional to their respective statutory bodies. The Municipality has acted in this matter and investigated the claims made by CFO. He was also afforded the opportunity to provide inputs during the investigation and his reports were made available to interested parties. It is therefore, important for the CFO to respect the rule of law and if he is not happy with any outcome to take the matter to high court for review. |
| . The (“CFO”) experienced extreme resistance from both the Municipal Manager and the Internal Audit to have the matter investigated. Finally the Municipal Manager appointed Gibbs to perform an “independent “assessments of all regulation 36 appointments related to the civil engineering unit. This report is attached hereto and marked as (Annexure D). It is submitted that this report is a total cover up that was crafted to deflect attention away from the fraud and corruption that took place. In doing so, however the report exposes gross mismanagement by the management of the civil Engineering Department. A perusal of the report will indicate the litany of failures on the part of the relevant officials to properly manage these appointments and the construction. No action has been taken against any of the officials involved, although their actions contravened various sections of the (“MFMA”), notably sections 78.  | The Municipal Manager and Director :Internal Audit considered the CFO’s memorandum and acted upon it. The CFO has failed until the day of his suspension by the council to disclosed the private engineering company he used to confirmed his suspicious. It was an unusual step for the CFO to source service providers to assist him pro-bona as he claimed, to uncover the allegations. The Municipal Manager was also concerned that the CFO’s conduct might compromise the municipality by finding itself involved in the commercial spats between engineering consulting companies. The CFO has all the rights, if he believes that the report by the engineering company (GIBB) is not credible, to report it to law enforcement agencies and also the professional to their respective statutory bodies. The Municipality has acted in this matter and investigated the claims made by CFO. He was afforded the opportunity to provide input, during the investigation and his reports were made available to interested parties. It is therefore, important for the CFO to respect the rule of law and if he is not happy with the outcomes of any investigation, he has a right to take the matter on high court review.  |
| 3. It is worth mentioning that Gibbs has been appointed as consultants for the biggest projects at KwaDukuza. Some of these include: 3.1 The realignment of the M4 freeway at cost of R61m for professional fees: a) This is an irregular appointment because the M4 freeway is not a municipal road and the municipality is not allowed to incur expenditure on assets that do not belong to the municipality or on functions which do not form part of the municipal powers and functions. b) The expenditure is also unauthorised as there is no approved budget to pay for the professional fees. Gibbs has done work, invoiced the municipality and the invoice remains unpaid. Gibbs has referred the matter to their legal representatives to collect the money from the municipality. c) The same consultant that was in charge of the independent assessment on the infrastructure damages is also the main contractor on this project.  | GIBB forms part of the municipal panel of consultants and it is one of the biggest multinational engineering consultants in the database. It is further worth mentioning that all appointments are made in a competitive basis, within committees that the CFO has been chairing for several years which is the Tender Adjudication Committee.In 2013/2014, the Finance Business Unit under the stewardship of Mr Shamir Rajcoomar initiated a process of securing a long-term loan to build infrastructure including the provincial road (P545) which was critical to unblock the Ballito economic potential. SANRAL invested R119 million into the Interchange; KwaDukuza invested R43 million while KZNDOT invested R24 million in the upgrade of main road P445, which adjourns the M4. The construction began in 2011 and completed in February 2015. The development helped unlock the development of a R1 billion Ballito Junction Shopping Mall which was opened in 2017. The total investment was R186 million.This is one of the roads which was funded by this DBSA loan in the tune of R43 million, for the expansion and redevelopment of less than a kilometre of a provincial road known as P454 (Ballito Main Drive), from McDonald Restaurant robots to M4 Highway. This was one of the best decisions to be made by council to invest in this road as it unlocked a number of developments along the Ballito CBD, including the McDonald, Virgin Active and Ballito Hills. If the municipality was wrong to take a loan for the development of the provincial road, P545, it would only spell to fact that it was the CFO who then misled the council and public. He would then have failed to exercise section 81 of the MFMA. The municipality and its private sector partners have also invested their monies in planning for the provincial roads in the project called Ballito-Sheffield Transportation Master Plan. The whistle-blower with a conscience does not understand legislation and how it works to unlock the developments in municipalities.There was clearly nothing wrong with the appointment of GIBBS from our panel of engineers to plan for the much-needed alignment of M4 Road. The whistle-blower fails to understand that the planning that GIBBS undertook involved the development of the new roads which are required to ease congestion and pressure from the M4. This is not only planning for the M4 but amongst other projects named includes the M4. Therefore, This allegation is unfounded in legal terms, in particular on what is made to be fact that KwaDukuza Municipality is disallowed to incurre costs of the roads belonging to the province government. This is a fallacy that is tantamount to ignorance.The municipality reserves its right not comment on the legal dispute with GIBBS, as it is *sub-judice*. |
| 3.2 Housing Projects: a) Gibbs together with the Municipal Manager, Director Legal, Director Human Settlements and Senior Manager Economic Development and planning irregularly ceded a housing contract that was awarded to Zikulise Cleaning and Maintenance CC to another company in order to assist Zikhulise from avoiding paying SARS its dues. This is the subject of a separate investigation.3.3 It is evident that a corrupt relationship exists between certain consultants from Gibbs and various municipal officials. This corrupt relationship has defrauded not only KwaDukuza Municipality. Annexure G  | GIBB was not part of the cession agreement or its negotiations or appointment of Zikhulise .The appointment of Zikhulise was done prior Mr Hlongwane and Mr Mdakane joined KwaDukuza Municipality. The chairperson of the committee that appointed Zikhulise for its project was chaired by CFO of KwaDukuza Municipality (Mr. Shamir Rajcoomar).Mbozamo contract: Gibb was not an engineer of that contract but it was AmaQhawe Engineering Consultants. It is unfortunate that the whistle-blower has a personal vendetta and vengeance has failed to recognised that Zikhulise was awarded three (3) projects. In these projects, the CFO was involved in the appointments, including the appointments of consultants in our engineering panels.The KwaDukuza Municipality denies that Mr Hlongwane and Mr Mdakane aided Zikhulise Cleansing and Maintenance cc, to evade taxes by entering the cession. During the negotiations and finalisation of the cession agreement, Mr Hlongwane was not involved, he was away on council business outside the province. This has been recorded in a number of correspondences and affidavits made in various forums. Unfortunately, the vindictive whistle-blower is out to tarnished the good name of Mr Hlongwane and other municipal officials. This information will be made available, to any investigating body. According to the signed contracts with Zikhulise, which is in line with General Conditions of Contract, the municipality had a right to give consent to Zikhulise to cede to another contractor. The motivation presented to the late Mr TG Dube (Director: Human Settlements) and the fact that there was a public protest by beneficiaries which closed the N2 for 2 days, due to the contractor issues. It must be noted that Mr Hlongwane was not part of any cession negotiations, as he was not at work during those days. The cession agreement is valid and legal. SARS accepted the fact that the municipality was within its right to consent the cession. Agreement.The contractor approached director: human settlements (Mr Dube) regarding his desire to cede work to Benzettcc Trading as Simunye Hardware. The agreement was considered by the Municipal Manager and signed off, as it was not in conflict with the signed main contract or any law. The two cession were signed on the 2nd and 8th of March 2016, and the municipal manager or municipal officials were not aware of Zikhulise SARS issue. The municipal manager only became aware of KwaDukuza being appointed as the Third Party Payee for SARS, on the 16 of March 2016. The Municipal Manager through her former PA (Ms Janet Genleik) received correspondence from SARS which was appointing the municipality as the third party payee. This was received after the cessions had been entered into. The municipality as the responsible organ of state engaged with SARS to recover its money from Zikhulise. The municipality voluntary disclosed the two amounts that were due to Zikhulise, which were retention money for two projects. The retention money for the Mbozama Project was paid to SARS on the 30 September 2016.Mr Hlongwane was able to make an intervention in 2020 when the function was no longer with him; when certain officials were facilitating the payment of retention money (R7,6 million) to Zikhulise not to SARS. The payment was stopped by Finance Business Unit on the instructions of Mr Hlongwane. The duly authorised payment to SARS lawyers was facilitated and done in June 2021 by Mr Hlongwane, in line with the consent that was granted by the Durban High Court on the 18th of May 2021. It is puzzling, why Mr Hlongwane who have a corrupt relationship with Zikhulise would have stopped the payments done by another department. This again shows that the Whistle blower intention of destroying the reputation Mr Hlongwane is well advanced. (Mr Hlongwane has consented that I share with you his work emails to clearly show his commitment in the fight against corruption). Therefore, it is misguided for anybody to accused municipal officials of aiding Zikhulise to evade tax evasion. The Municipal Manager, CFO have attended matters in the tax courts to assist the court and there was no finding as such. The CFO, Municipal Manager and Mr Hlongwane attended the SARS Liquidator’s Inquiry in 2021, and there were no findings against the municipality. These officials have attended all this subpoena’s in the interest of good governance and ensure that SARS recover its money due to them. It is rather strange that the role of CFO in the appointment of Zikhulise prior the arrival of Mr Hlongwane and Mr Mdakane is not the focus area of the enquiry. |
| 4. It must be further noted that, during March 2020, the municipality again experienced storm damages and a significant amount of the infrastructure that was constructed via regulation 36 appointments were destroyed once again. This is testimony to the quality of construction. What is interesting is that, to date, some 2 years after the March 2020 storm damage, the majority of the infrastructure had not been repaired. This in itself is further testimony to the fact that the initial regulation 36 appointment in March 2019 and April 2019 was not necessary and the municipality could have gone out on a proper tender process in order to appoint competent and capable contractors to reinstate the damaged infrastructure. 5. Apart from incurring irregular expenditure on these projects, the expenditure is now also viewed as fruitless and wasteful. It is noteworthy that the auditor general in his audit report over the last few financial years has consistently raised a finding that the Municipal manager has approved deviations from (“SCM”) policy when there was essentially no real grounds for these deviations, refer to (Annexure G), which are copies of the AG Audit report for period 2017/2018 and 2018/2019. | The municipality did not experience any storm disaster in 2020. However, KwaZulu-Natal experienced a natural disaster in 2021, where a number of old and new infrastructure was affected by this tragic natural events.In KwaDukuza, the Sanral N2 Bridge (Tinley Manor) collapsed, immediately after its construction by SANRAL. There are no grounds to justify that this was a result of corruption or poor workmanship by SANRAL.The structural engineers deployed to assess the damages to infrastructure in KwaDukuza concluded that all infrastructure collapsed due to natural disaster therefore, any contrary view in the report of Municipal Infrastructure Support Agent (MISA) engineers must be backed by an alternative report. The deviations were duly approved by the Municipal Manager in line with SCM policy. This process was declared in our financial statements and investigated by MPAC and the AG. The whistle-blower with a conscience has selective memory – by not declaring the fact that in the last five years KwaDukuza has reduced the abuse of irregular. The Section 36 transactions deemed to be irregular have been reduced to less than R3 million during the 2021/2022 financial year. The whistle-blower with a conscience must afford the AG office to deliver according to its mandates, read the Annual Report or join our public participation platforms where such issues are clarified.  |
| There are allegations that many government officials received kickbacks from these irregular appointments and that some contractors transferred money into a local Cash and Carry,” Desais Cash and Carry”, which was then subsequently paid out to officials from the Municipality. It is the same company that was found by the SIU to be a conduit for money transfers related to Digital Vibes PPE irregular contract. It is further alleged that the Municipal Manager received cash. It is alleged that money was also paid into the Municipal managers family Trust of which the Municipal Manager is a trustee. | Desai’s Cash and Carry could be the only entity which can comment on this allegations for playing conduit for the alleged kickbacks. It would surely be interesting if they can disclose their involvement with Digital Vibes.This is unfounded allegations against the municipal manager, which does not warrant a response. The Municipal Manager family Trust has been declared to KwaDukuza and there is no declaration of any income generated by the trust. If the Municipal Manager has received any income, he will duly declare as per the requirements of the legislation.KwaDukuza does not have any knowledge about an investigation by the SIU in this matter. |
| 7. The current Mayor Cllr Lindile Nhaca is involved with corrupt activities being aided by her close friend Sikhumbuzo Hlongwane the head of Economic Development and planning. As a reward for his assistance in the corrupt activities she has motivated that he assumes the role also of Human Settlement a post from which he was removed previously due to him be implicated in the Rocky Park Housing corruption fiasco. (Annexure X) The Mayor resides rent free in a R6,7m home in the affluent Izinga Estate development in Umhlanga. This home is owned by a service provider Benjivert pty ltd owned by Kevin a close friend of the Mayor and who is involved in civil projects for the municipality awarded at highly inflated prices. One project the Hulett Bridge after a meeting with the contractor Mayor Lindile The MM Madikane and Mr Sikhumbuzo Hlongwane where cover prices were arranged and a R19m Hulttte bridge in Darnell project was awarded at R29m.  | 7. The current Mayor is not involved in the corrupt activities as alleged. She is not a close friend to Mr Sikhumbuzo Hlongwane, the Head of Economic Development and Planning. The Mayor enjoys a professional and cordial relationship with all her executive management team led by the Municipal Manager. The Mayor by law, is the supervisor of the municipal manager not executive directors. She will have close working relationship with the Municipal Manager as the law dictates. Mr Hlongwane is not and was never implicated in the so-called Rocky Park Project as suggested the report that you claim to have in your possession and also as per response number 9, below.The approval of the 2022 Council Legkotla Resolutions which includes the transfer of various functions amongst various business units was done in an open, transparent and objective manner. By way of background, the Council of KwaDukuza in the previous Term of Office took a decision to restructure the Human Settlements functions to be aligned with its vision of becoming a city by the year 2023. Part of its decisions was to transfer the Human Settlements Function from Economic Development and Planning Unit to Civil Engineering since the council at that time had a view of bundling infrastructure functions into one business unit.The motivation was then to ensure that the business unit was properly aligned with an infrastructure unit. Further to that, Mr Hlongwane was given additional functions which included Libraries, community halls and MPCC to the then new Community Services Department. Mr Hlongwane also took over the Business Licensing Unit from Corporate Services at that time. The rationale behind such restructuring was to ensure that KwaDukuza is able to fulfil its five year strategic objectives of the previous council.The Human Settlements unit under the stewardship of Mr Hlongwane performed exceptionally in the knowledge that the municipality received a number of accolades for outstanding housing delivery which included several Govan Mbeki Housing Awards. The decision to transfer certain functions became on the 01 January 2017. Mr Hlongwane has a record of not having any IRREGULAR EXPENDITURE. That alone must show that he is ethical and he follows processes. Mr Hlongwane is known for his high ethical conduct and somebody who falls rules.In the current Term of Office, council once again applied its mind at its lekgotla to ensure that it is able to deliver on its own electorate mandates. This is a normal process for any municipality and council has the powers and discretion to restructure any department as and where necessary in compliance with the legislative framework. This lekgotla was open for media, a key stakeholder whom are bound by duty to report objectively about such matters since KwaDukuza invites media to cover its events from time to time. The current council of KwaDukuza on the 28 June 2023, approved the transfer of the function back to Mr. Hlongwane with immediate effect, which the North Coast Courier was represented.The reason of multi-party council to take the function back to Mr Hlongwane was a result of poor performance. The function had since deteriorated and it need to be fixed. Mr Hlongwane is known for his high work ethics, anti-corruption stance.This decision of council does not sit well with certain individuals who were part of the March on 31 August 2023 and such attacks are clearly not a surprise. The invaders of the Rocky Park Integrated Residential Project are aware of a process of eviction which is underway and hence the attack against Mr Hlongwane and the lawyers of the council.It is also unfortunate that the whistle-blowers undermines the integrity and thinking capacity of 59 councillors of KwaDukuza who were part of the three different sessions of Lekgotlas which ultimately led to the decision of the 28th of June 2023. All Business Units were affected with transferring of functions, including Finance Business Unit which will be taking over the Finance IT Systems administration from Corporate Services. We wonder who is being rewarded for the transfer of this particular function? To suggested that the mayor is rewarding Mr. Hlongwane with a new function is mysterious as this was a decision of the council which has to exercise its independence when taking decision.**The real motivation of transferring human settlements to EDP business Unit:** KwaDukuza Council on the 28th of June 2023, in the presence of North Coast Courier journalist adopted Legkotla Resolutions with more than 240 resolutions, which need to be implemented in the next five financial years. Amongst those resolutions taken, it involved restructuring and transferring of certain functions to certain business unit. The motion to adopt, was presented by Cllr Ali Ngidi on behalf of the majority party (ANC), which he gave in details, the reasons of amending some resolutions and rationale behind of transferring functions across various business units. The Human Settlements in particular, it was mentioned that in the last audited annual performance reports, only 83 houses were built, and more than 5 projects with budgets are stalled due to various reasons. It was further noted that this function has been languishing since it had been moved by the previous council through their adopted legkotla. It was further noted that during the tenure where the function was within the EDP business unit prior and during Mr Hlongwane period, it was leading and feature prominently on the Govan Mbeki Housing Awards. It was noted that in the last five years, there has been no award for housing received. It was only one party, Independent Alliance, Cllr Ntleko, who objected on the basis that EDP needed to fix the issue of informal traders. All other political parties supported the resolutions. It is disingenuous that the Mayor pushed for this recommendation. It must be recorded that the proposer of this resolution during the final legkotla held at Mellorwood Park was Cllr SS Mthiyane and he was supported by most councillors.It is a public knowledge, that Mr Hlongwane since he joined KwaDukuza Municipality he has been part of the top performers and in certain financial years. During his tenure at Human Settlements, the function was a top performer in the province and delivered an average of 400 units per financial year, compared with the current performance of the function. The municipality was scooping a number of housing awards, in particular the Govan Mbeki Housing Awards. During his tenure, he fired a number of non-performing project managers and implementing agencies. Since he took over the function on the 28th of June 2023, he has initiated the termination of an implementation agency that has been not on site since last year November 2022, responsible for Sakamkhaya Housing Project and Ntshawini Housing Project. Mr. Hlongwane will not be deterred by ill-conceived and personal attacks aimed at tarnishing reputation and reversing his successes over the years.The Mayor has never resided on the R6,7milion home owned by Benjivert PTY LTD. The mayor has never rented any property and she has always stayed close to her constituency and family. The Mayor has never stayed or even visited Nzinga Estate as she does not have friends, associates, family who owns any property in the gated estate. KwaDukuza Mayor is full-time at her family home in Charlottedale, Groutville. The only time that the Mayor did not stay at her place it was during the month of April 2023 due to security concerns that were reported through the SAPS intelligence unit. The municipality through its service provider (travel and accommodation agency), rented temporary accommodation at Simbithi. This was paid for by the municipality, in line with council policy. The records are available for scrutiny in this regard. The current Mayor remains willfully grounded and stays with the same community that elected her and in her family home.The Mayor has a twenty four (24) hour security detail and all her cars including that of security personnel have a GPS system which can easily provide evidence that the Mayor has never been at Nzinga Estates in Umhlanga. The onus is on the so-called whistle-blower to provide the period in which the mayor stayed at Nzinga. It is also the onus of the investigative journalist to check with Inzinga on the facts around such a booking and validate the claims that the municipal owned vehicles were indeed based at Inzinga. It is unfortunate that the “whilst-blower with a conscience” has not mentioned the date, venue and time of the alleged meeting. This alone shall ring bells for any experienced and ethical journalist to differentiate facts from fallacy.There has been no meeting with the contractor Benjivert PTY LTD, Mayor, Municipal Manager Mdkane and Mr Sikhumbuzo Hlongwane to arrange cover prices which inflated prices from R19 million to R29 million. Mr Hlongwane, Mr Mdakane and Mayor has never met with this contractor which the whistle-blower reveals to be Kelvin. Below is the exact process that was followed to award the contract to Benjivert PTY LTD, within the ambits of legislation:The appointment of the contractor (Benjivert PTY LTD) for the Hullets Bridge was done through competitive bidding process. The tender was advertised to the contractors who were already in our panel for a shorter period in line with our emergency procurement process. The prices offered by all the contractors were opened in the public and recorded accordingly. It is therefore strange to fathom how the prices that were open in the public for competitive bidding could have been manipulated.The TAC that was then chaired by the suspended CFO, dealt with this matter, whereby the tender was recommended for the award to a certain contractor. The letter was issued to the unsuccessful bidders and notified that they have 14 days to appeal the decision. The current contractor (Benjivert PTY LTD ), appealed the decision. The independent bid appeals committee chaired by the Executive Director: Community Safety (Mr Cecil Viramuthu) considered the matter and upheld the appeal. The Appeals committee than issued a decision that the contractor must be considered and evaluated by the Tender Evaluation Committee and adjudicated by the Tender Adjudication Committee. This process was duly followed and the award made to the current contractor. Other companies that were part of the bid, including the initial recommended company were invited to appeal the decision for a period of 14days. There was no appeal and the tender was awarded. It must be noted that the mayor neither Mr Hlongwane were part of any of the committees that dealt with the tender and did not have any influence in the appointment of the contractor. The value of the award of this contractor is R 29 149 149.44 (Incl. V.A.T). If there was any rigging of the tender as the so-called whilst-blower alleges, it was only going to happen in tender committees which the alleged individuals are not even part of those committees. The process of award for the Hullets Bridge was done properly in accordance with the SCM policy and the MFMA . Mr Hlongwane was never and is not responsible for the civil engineering department, which could have made him be in contact with the service provider.Mr Hlongwane has delivered the KwaDukuza Musuem with a local contractor, Rapid Contractors. Even in this project, he has always allowed project managers (SMEC engineers) to interact with the Contractor. This alone shows his ethical conduct.The Mayor by law, does not participate in the SCM process. For the first time, during the last audit that KwaDukuza Municipality has been commended by AG for not having any finding on the Supply Chain Management. This was announced in the presence of the media, but it did not get coverage because it was good news and the focus on the local media was around energy losses at that time. The only times that the Mayor is able to be amongst contractors are on occasions were contractors are introduced to their sites, during formal meetings and during oversight meetings to site where councillors and officials are generally part of the delegation.It is very unfortunately, that the evil motive by the so-called “conscious whistleblower” is being done to tarnished individuals, which he or she believes are behind the suspension of the CFO. This is the act of desperation, and which the municipality’s position has been clear that we don’t want to offer any commentary on the fair and just disciplinary process underway against the CFO.  |
| 8. Corruption by COO Mandla Manzini a confidant of the Municipal Manager I enclose a WhatsApp message between Mr Manzini cell number  | The recorded audio conversation of two unknown individuals believed to be EFF members suggests that KwaDukuza mayor, the Municipal Manager, and the Chief Operations Officer (COO) aided the EFF to ferry its members on a return trip from KwaDukuza to a political rally that was organized in Gauteng on Saturday, 29 July 2023 as part of its 10th year anniversary celebration. These claims as a witch-hunt and a desperate ploy to tarnish the reputation of the ANC led government. The mayor of KwaDukuza is deployed by the African National Congress (ANC) which is a political rival of the EFF and both parties contest elections. We view these allegations as well-orchestrated political ploy which seeks to undermine the industrious track record of fighting corruption.Surely, this smear campaign is said to distort our focused efforts of combating malfeasance, maladministration, and our goal of strengthening municipal financial controls.**The mayor is** current Chairperson of the Finance Portfolio and Chairperson of the Budget Steering Committee and she is responsible for financial oversight on behalf of council. It is therefore an insult to suggest that such a huge amount of money would have been siphoned out of the public purse and diverted to a political party activity. KwaDukuza Municipality does not have a budget or policy framework that caters for funding of political parties or individual councilors.Should KwaDukuza be found to have siphoned such an amount for a political party activity, such record will surely be identified by the auditor general and by the audit committee. The public must be wary of the fact that public funds are regulated by the Municipal Financial Management Act (MFMA) and other controls which dictate that we conduct business of council in a manner that is transparent and open for public scrutiny. In addition, our financial statements are audited internally and by the Auditor General of South Africa. It is improbable and nonsensical to then buy into a narrative which purports that a sum of R400 000 was splurged to a political party rally.The Independent Electoral Commission (IEC) is the only state organ that has a constitutional mandated to administer, allocate political funding, and report on donations received by political parties as regulated by the Political Party Funding Act.If what is being alleged were to be true, the EFF has an obligation to disclose the donations received especially since the amount alleged exceeds R100 000 to the Electoral Commission within a period of three months.The IEC in respect to the proportional representation of political parties represented in parliament, appropriates funding to parties in the national assembly to enable those parties to run and operate their constituency offices. The ANC in KwaDukuza enjoys the support of smaller parties as a means of advancing service delivery, ensuring the restoration of infrastructure, and fighting corruption without fear or favour, thanks to the regional and provincial leadership of the ANC that presides over this coalition arrangement.All ANC coalition arrangements are managed by the Office of the Regional Secretary and Provincial Secretary and not by the mayor, the municipal manager, or any municipal official. Certainly, this is a nonsensical assertion by the whistle-blower owing to the fact that KwaDukuza is a hung municipality that enjoys a coalition arrangement with only two of the smallest parties. |
| 9. Rock Park Housing Corruption and Theft of Money – at least R 60m. (Annexure X) 9.1 An audit report found that there was Non-Compliance with the Tripartite Agreement as follows: a) The QS appointed by Simsi did not sign the claim of work measured as required, see section (4.1.1) of the Tripartite Agreement. b) The KwaDukuza Municipality did not manage and monitor the performance of Simsi to ensure compliance with the agreement. c) The over-claim of payments referred to above, suggested that the appointed professional who inspected quantity and quality of the completed work monthly failed to execute his or her duties with care and diligence. d) The kwaDukuza Municipality and Department officials who verified work done failed to perform their duties with due care and diligence. Mr Themba Dube who was the Director: Human Settlements confirmed through an interview that he certified the work without having visited the site and Mr Simphiwe Mthiyane who is employed as a Quality Assurance inspector signed the D6 forms which is a form that indicates the amount of work that has been done, in the office and not at the site when he done the inspections. e) Simsi varied the technical specifications on the construction by adding built in cupboards which they were not required to do. f) Simsi did not keep proper books of account for the department to appoint the auditor to undertake a detailed audit of books in as so far as they relate to the project. g) Simsi and the Municipality were supposed to submit written progress reports and cash flow projections with each claim to the Department , had this been done it would have alerted the department to the over claims and the inability of Simsi to complete the project with the remaining funds. (Annexure X) 9.2 The findings of the audit report has pointed out numerous irregularities on this project which resulted in over claiming of approximately R68m (Sixty Eight Million rands) by the construction company, Simsi. It is alleged that the Municipal Manager of KDM, the Senior Manager Economic Development and Planning and other municipal and Department staff officials facilitated a process whereby the R68m (Sixty Eight Million rands) in public funds were fraudulently claimed or stolen via this project . Clause 4.1 of the Tripartite Agreement clearly lists the responsibilities of the Municipality, who is the Developer, regarding this project. They were responsible for the oversight and management of this project. It is further alleged that they were complicit in the performance of their duties which resulted in the huge financial loss of public funds. Simsi failed to keep proper accounting records on this project as required by the Tripartite Agreement and intentionally included the expenditure incurred on this project with other projects so as to hide the actual expenditure on the CRU project, this was a blatant feat to misrepresent the accounting records. The amounts claimed on the various aspects of the Tripartite Agreement in respect of the Development Allowance, Construction Costs and Professional fees is a total misrepresentation of the work that was actually done on the construction site which amounts to fraud as documentation provided for these claims were falsify. The funds paid to Simsi should be followed through with a forensic audit to determine the beneficiaries of these funds.  | 9. As per the Whistle-blowers account of the Rocky Park Project reports identified Mr Hlongwane was not part of any signing of the D6 form, which is the form that accompanies invoices to the Department of Human Settlements for payment. The Late Mr Themba Dube, who was a Director : Human Settlement was delegated to this responsibility. The KZN Department of Human Settlements was a paymaster of the Implementing Agent (SIMSI), in line with the provision of the Public Finance Management Act. How then does the Municipal Manager and Mr Hlongwane feature in on the payment of this service provider and CFO responsible for the municipal bank accounts and Finance Business Unit does not feature? 9.1 As per the report that the Whistle Blower has shared with you, we would like to quote three paragraphs which will clearly explain that Mr Hlongwane, Mr Mdakane and Mr Shamir Rajcoomar or any official from the municipality, **cannot be held accountable for the internal control deficiencies /failures of the Provincial Department of Human Settlements.** **PAYMENTS SYSTEM FLOW/DESCIRPTION****5.1. At the site** The Quantity Surveyor (QS) by the name of Molata which was employed by SIMSI would measure work done at the construction site and determine the value of work to be invoiced by SIMSI. Mr Sibusiso Khoza, SIMSI CFO will issue an invoice based on the measurements made by the QS. **Mr Khoza stated that he prepared the letters which were signed by Mr Themba Dube, late Director for Human Settlements of KwaDukuza Municipality.** When he prepared the letter, he took it to the municipality to get a **stamp and signature from Mr Dube**. He would then take the Municipal letter, invoice and attached the QS measurements and submitted them to the Department. **5.2. In KwaDukuza Municipality** **According to Mr Themba Dube he stamped and signed a letter “certifying that the service provider has delivered the goods or services and they are satisfactory.”** He does this without visiting the site to confirm what is appearing on the invoice. Mr Dube also stated that the construction work is also inspected by a municipal official, an official from the National Home Registration Building Council (NHBRC) and an official from the Department. **5.3. At the Department**A D6 form is prepared which indicates the amount of work that has been done. The Quality Assurance Inspector will then perform verification on what has been declared as completed, an NHBRC representation then checks and certifies the quality of work that has been completed and the quality of the building. The QS will then also verify whether measures were done correctly according to the specification. The D6 Form is then signed by all parties after having satisfied themselves with the work said to be completed. Once the verifications have been done, the contractor will then generate an invoice which is sent to the KwaDukuza Municipality. The invoice is signed by the KwaDukuza Municipality Director in Human Settlements to confirm that the invoice has been checked and service have been rendered. **The invoice is then sent to the Human Settlements, Deputy Director: Social Housing and CRU who certifies the invoice and also attaches the D6 form and sends it to the Finance Department for the processing of the payment.**The above extract from Reconciliation Report does not make reference to Mr Hlongwane or Mr Mdakane or Mr Rajcoomar. It only mentioned the late Director: Human Settlements (Mr Dube), who was interviewed and confirmed his role. The most significant point is under point 53, last line which states the following: “**The invoice is then sent to the Human Settlements, Deputy Director: Social Housing and CRU who certifies the invoice and also attaches the D6 form and sends it to the Finance Department for payment processing.”** This is to confirmation that not even 1 cent, was paid by KwaDukuza Municipality to SIMSI and the paymaster was the KZN Department of Settlements. It is not a mistake that SIMSI financial transactions have never been picked by Auditor General when KwaDukuza audits are conducted. Hence, there has never been any irregular payments of this project or any other Housing project managed and paid directly by KwaDukuza Municipality. Further, it must be noted that the signature of the official from KwaDukuza, did not push the province to pay and they still have an obligation in terms of Public Finance Management Act and their internal control measures to verify any payment request. To show the insignificance of KwaDukuza Signature, in the same report, the Department has paid the invoice without KwaDukuza Municipality official signing. The invoice is then sent to the Human Settlements, Deputy Director: Social Housing and CRU who certifies the invoice and also attaches the D6 form and sends it to the Finance Department for payment processing. **“10.3.2. Forms DG were signed by the Department, and NHBRC officials but towards the end of 2016 and 2017, only Mr Mthiyane signed that document signed that document. No sound reasons were offered for that anomaly.”**It is important to note that KZN Department of Human Settlements was responsible for the processing of the invoices not KwaDukuza Municipality. The **KZN Human Settlements Internal Financial Control Policy and procedure were applicable and they can only be breached by their own officials not KwaDukuza Municipality.** The Council of KwaDukuza rejected the report because the municipality officials and municipality was made a scapegoats on the failure of the tripartite arrangement and alleged overpayment of the contractor. Council further noted that the same officials that were implicated within the Department, were responsible for sourcing and managing the investigators, in order to be shielded and KwaDukuza blamed. It is against this background, that Council in 2021 requested both the Provincial Treasury and Office of the Premier to conduct a forensic investigation, whereby KwaDukuza, NHBRC and KZN DoHS will be afforded a fair chance to provide evidence and clearly explain their roles. The KZN Office of the Premier indicated in April 2023, that they are procuring the services of the forensic auditor to audit the project and the books of the paymaster, KZN Department of Human Settlements.KwaDukuza Municipality have never paid a cent to SIMSI for any of the two projects that they were appointed for implement in KwaDukuza Municipality. If KwaDukuza Municipality was the paymaster to the service provider, this could have been shown by our finance business unit in our annual financial statements. This project could have been investigated by our Municipal Public Accounts Committee too. The relevant department to respond for the alleged wrongful and inflated payments is the Department of Human Settlement. Why does the annual financial statements prepared by the CFO do not indicate IRREGULAR or WASTEFUL EXPENDITURE related to ROCKY PARK Project? It is the a fallacy and fabrication of information that either Mr Hlongwane or Mr Mdakane assisted anybody to loot over R60 million. In the contrary, the two senior officials have been pushing for the independent investigation in order to deal with the real source of this maladministration and corruption in relation to Rocky Park Housing Project. Therefore, it is proper for the media houses to refer the questions to both the Department of Human Settlements and KZN Office of the Premier regarding the status of the project and proposed forensic investigation. |