



MINUTES

Meeting: ANNUAL GENERAL MEETING

Date: 28 AUGUST 2019

Time: 12H30

Venue: FAIRMONT HOTEL
ZIMBALI COASTAL ESTATE
BALLITO, DURBAN NORTH COAST
KWAZULU-NATAL

1. WELCOME

The meeting commenced at 12H30 with a welcome by the Chairperson, Adv L Bono.

2. PRESENTATION OF CREDENTIAL OF COUNCILLORS

2.1. All credentials were verified.

2.2. Attendance was as per the attendance register.

2.3. The General Secretary confirmed that due and proper notice of the Annual General Meeting was served to all Parties and delegates to the Council. The meeting constituted a quorum as all Parties were present. The Chairperson declared the meeting properly constituted.

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3. MINUTES OF THE PREVIOUS ANNUAL GENERAL MEETING

3.1. The minutes of the Annual General Meeting held on 29th August 2018 was tabled.

3.1.1. The Employer moved and the SADTU / CTU-ATU seconded the adoption of the minutes.

Decision 1:

The minutes of the Annual General meeting of 29th August 2018 was unanimously adopted.

4. MATTERS ARISING EX-MINUTES, OTHER THAN THOSE COVERED BY THE AGENDA

4.1. None

5. ANNUAL REPORT OF THE COUNCIL BY THE GENERAL SECRETARY, INCLUDING THE FINANCIAL STATEMENTS OF THE PREVIOUS FINANCIAL YEAR, WHICH FINANCIAL YEAR SHALL RUN FROM 1 APRIL TO 31 MARCH

5.1. The General Secretary tabled the Annual Report and highlighted the following:

Strategic-outcome oriented goals

Goal 1

5.1.1. Research, monitoring and evaluation activities provide an evidence base for improved policies and policy implementation in basic education.

Achieved

5.1.2. 2nd Education Indaba – 28 and 29 August 2018

- PPN Work stream: Principles for development of revised PPN finalised
- ECD/Grade R Work stream: Data gathering (number of practitioners; qualifications; stipend/salary; institutions of higher learning offering Grade R qualifications; provincial plans)

Work in progress:

5.1.3. Proposals presented to HEDCOM for consideration (development of labour-management partnership framework)

Agenda items:

5.1.4. Out of 13 items, six were achieved and two items (PPN & Addendum to CA 1 of 2012) were removed from the agenda.

Goal 2

5.1.5. Equal importance is attached to proactive dispute prevention and dispute resolution

Achieved

- 5.1.6. Facilitation in Eastern Cape and Western Cape
 5.1.7. Finalisation of remaining cases of displaced employees in the Eastern Cape.

Goal 3

- 5.1.8. Research, monitoring and evaluation activities provide an evidence base for improved policies and policy implementation in basic education.

Achieved

- 5.1.9. Four national collective agreements.

Goal 4

- 5.1.10. Provide appropriate support and training for all involved in dispute resolution and collective bargaining.

Achieved

- 5.1.11. Training initiatives on implementation of Collective Agreement 3 of 2018 Collaboration with Department of Justice and Constitutional Development to offer the following training:
- Panellists (Gauteng and KwaZulu-Natal)
 - Intermediaries (Gauteng and KwaZulu-Natal)
- 5.1.12. Training and development for:
- SADTU Shop Stewards (Gauteng, Free State and Eastern Cape)
 - Training for Dispute Resolution Practitioners (Limpopo and Western Cape)

Goal 5

- 5.1.13. Sound communication strategies support and complement the core activities of the Council

Achieved

- 5.1.14. Print advertising (5 community papers, 1 national paper, NAPTOSA Insight Magazine)
 5.1.15. Ad-light advertising (9 provinces)
 5.1.16. Taxi Branding campaign (Free State, Limpopo and North West)
 5.1.17. Exhibition (5)
 5.1.18. Distribution of promotional material of key education events (7)

Goal 6

- 5.1.19. Strengthen social dialogue through supporting and participating in education initiatives such as the National Collaboration Trust (NECT)

Achieved

- 5.1.20. Council participated in the following activities:
- Teacher Appreciation Support Programme (TASP)
 - World Teachers Day Teacher's celebration
 - NECT National Reading Coalition

Performance Information by ProgrammeProgramme 1: Collective Bargaining Services: National

- 5.1.21. Achievement rate for 2018/19 was 100% (all 10 objectives were achieved)

Highlights

- 5.1.22. Concluded 4 Collective Agreements

- Collective Agreement No. 1 of 2018: Vote Weights for the Trade Unions that are Parties to Council
- Collective Agreement No. 2 of 2018: Amendments to Paragraph 8.5.2 and 8.5.3 of the Personnel Administrative Measures
- Collective Agreement No. 3 of 2018: Providing for Compulsory Inquiries by Arbitrators in Cases of Disciplinary Action against Educators charged with Sexual Misconduct in respect of Learners.
- Collective Agreement No. 4 of 2018: The Appointment and Conversion of temporary Educators to Posts on the Educator Establishment

5.1.23. Ratified 3 Provincial Collective Agreements:

- Eastern Cape Collective Agreement No. 1 of 2018: *Procedure for the Staffing of all Schools under the Control of the Eastern Cape Education Department in Three Year Cycles*
- KwaZulu-Natal Chamber Addendum Annexure B: *Criteria for the Transfer of Educators Identified as Additional to the Schools Establishment due to Operational Reasons in Accordance with Section 4 of Collective Agreement 1 of 2017 in the Three-Year Cycle*
- Free State Collective Agreement No. 1 of 2018: *Guidelines for Advertising and Filling of Educator Post at Institutions*

Programme 1: Collective Bargaining Services: Provincial Achievement rate for 2018/19

5.1.24. Three provinces achieved 100%: Gauteng, Limpopo and North West.

5.1.25. Eastern Cape achieved 67% (out of 6 objectives, 4 were achieved)

Strategy to overcome areas of underperformance:

- To address the target on Dispute Prevention, Dispute Prevent task teams were established in the first quarter of the 2019/20 financial year.
- In relation to PPN, the multi-term agreement was endorsed in Chamber in the first quarter of the 2019/20 financial year

5.1.26. Free State achieved 77% (out of 13 objectives, 10 were achieved)

Strategy to overcome areas of underperformance:

- Training on Amended PAM – the Department reported that a submission for funding regarding the roll out of training would be prepared for approval.
- Provincial Strategy for Learner Attainment (PSLA) – the Curriculum Committee meeting would be convened well in advance to ensure that the PSLA report was tabled for discussion and ready for presentation at the next Chamber meeting.

- The Chamber achieved 100% in the first quarter of the 2019/20 financial year.

5.1.27. KwaZulu-Natal achieved 40% (out of 5 objectives, 2 were achieved)

Strategy to overcome areas of underperformance

- Post Provisioning – the consultation meeting between organised labour and the HOD did not take place during the second quarter. This meeting was held on 2 October 2018, at the beginning of the third quarter.
- Reports from the Employee Health and Wellness and Dispute Prevention task teams were not adopted during the second quarter at the Chamber meeting.
- The Circular had been subsequently withdrawn and the functioning of Chamber restored, but only from the beginning of the third quarter. Evidently the underperformance had been occasioned by an unrelated issue. This type of impasse is unforeseen and unavoidable.
- As a strategy to overcome the underperformance, the dates of Chamber meetings as well as the consultation meetings on Post Creation / Post Distribution are set earlier during the allocated quarters. This will ensure that should there be an impasse between Parties, then same can be resolved amicably and meeting dates moved within the quarter to avoid non-achievement.
- The Chamber achieved 100% in the first quarter of the 2019/20 financial year.

5.1.28. Mpumalanga achieved 92% (out of 12 objectives, 11 were achieved)

Strategy to overcome areas of underperformance

- The area on employment equity was not received from the Employer in the fourth quarter of 2018/19. This target could not be achieved in the first quarter of 2019/20 due to administrative changes from the Employer side that affected the performance of the Chamber. It is envisaged that performance will improve in the second quarter of 2019/20.

5.1.29. Northern Cape achieved 0% (out of 9 objectives, none were achieved)

Strategy to overcome areas of underperformance

- Post Provisioning reports were not presented in the fourth quarter, the information was incorporated in the first quarter of 2019/20.
- Incentives for educators' reports would be forthcoming in the 2019/20 financial year as Parties ultimately agreed on the criteria for payments for 2018/19 and the task team started negotiations on the payments of 2019/20 in May 2019.

5.1.30. Western Cape achieved 25% (out of 4 objectives, 1 was achieved)

Strategy to overcome areas of underperformance

- The programme performance indicator targets that were not achieved during the third quarter of 2018/19 (safety at schools, dispute prevention, sexual molestation or harassment) were fully implemented during the fourth quarter of the 2018/19 financial year. However, due to no task team meetings held during the third quarter due to the labour impasse, some annual targets were partially achieved although reports were subsequently dealt with at task team meetings called in the fourth quarter.
- Relations have been restored and the Chamber achieved 100% in the first quarter of the 2019/20 financial year

Programme 2: Dispute Management Services

5.1.31. Achievement rate for 2018/19 was 100% (all 5 objectives were achieved)

5.1.32. Statistics of Disputes referred for 2018/19

- 1026 disputes referred
- 594 in jurisdiction
- 432 out of jurisdiction
- 1768 events conducted (500 conciliation; 1268 arbitrations)
- 262 awards rendered
- 15 special disputes

Programme 3: Corporate Services

5.1.33. Achievement rate for 2018/19 was 100% (all 9 objectives were achieved)

Programme 4: Finance and Supply Chain Management Services

5.1.34. Achievement rate for 2018/19 was 100% (all 4 objectives were achieved)

Programme 5: Executive Services

5.1.35. Achievement rate for 2018/19 was 100% (all 4 objectives were achieved)

Highlights

5.1.36. Due to IA monitoring of internal controls, risk management and compliance management through performance of internal audits, Council achieved a clean audit.

5.2. The CFO tabled the Annual Financial Statements for the period 1 April 2018 to 31 March 2019 and highlighted the following:

- 5.2.1. That the Council reflected a positive net asset position in that the total assets exceeded the liabilities.
- 5.2.2. That the total cash and cash equivalents amounted to R162,2 million.
- 5.2.3. That the Council was operating as a going concern, that is, it would be able to operate in the foreseeable future.

Revenue – Levies

5.2.4. R73.2 million (102%) of the annual budget of R72 million was collected. The actual revenue collected for the exceeded the annual target by 2%. This was due to a slight difference in the average number of educators used on the projections while the contribution rate per educator remained at R15 per teacher.

Other Income

- 5.2.5. R10.8 million (52%) of the annual budget of R20.96 million was received. Other income consisted mainly of investment income (interest)
- 5.2.6. Included in the budget for this account was an amount of R17.2 million carried forward from the previous financial year for FTSS. These funds are reserved for special projects as identified by the DBE.
- 5.2.7. Overall income received for the year ended 31 March 2019, was R84.3 million compared to R83 million received in the previous financial year resulting in an overall increase of only 1.54%.

Expenditure

- 5.2.8. That the total operational expenditure was R65.5 million (75%) of the annual budget of R87.3 million excluding CAPEX.
- 5.2.9. That the total expenditure on CAPEX was R1.3 million (23%) of the annual budget of R5.6 million. The material under spending on this line item was due to the procurement of software that was only finalised at year-end.

Financial Performance: Surplus

- 5.2.10. That the ELRC's revenue and expenditure have resulted in an operational surplus of R17.6 million for the year including CAPEX.
- 5.2.11. That the financial performance was therefore at 75% of the annual approved budget.

Conclusion

- 5.2.12. That the performance information and the Annual Financial Statements as part of the Annual Report are recommended for adoption by the Annual General Meeting.

5.3. CTU-ATU indicated the following:

- 5.3.1. That the reports were factually accurate.
- 5.3.2. That there were two issues that they were hoping would be concluded; the issue of the PPN Work Stream, hopefully HEDCOM would view it favourable with regards to financing the recommended model; and the issue of the universalization of Grade R.

6. THE INDEPENDENT REPORT OF THE REGISTERED AUDITORS IN RESPECT OF THE FINANCIAL STATEMENTS REFERRED TO IN CLAUSE 5

6.1. Ms N Ashom (Ngubane & Co) tabled the "*Independent Auditor's Report to the members of the Education Labour Relations Council*" and indicated the following:

- 6.1.1. Confirmed that Ngubane & Co was independent from Council.
- 6.1.2. That the auditors were solely responsible for the audit of the financial statement of the ELRC, which comprised the statement of financial position as at 31 March 2019, the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year ended 31 March 2019, as

well as the notes to the financial statements, including a summary of significant accounting policies.

- 6.1.3. Thanked the General Secretary and the management team for the debates and for the support received with regards to the audit.
- 6.1.4. Confirmed that there were no limitations to their scope, as a result their audit was free from any undue pressure from management and as a result, they were able to issue an independent opinion.
- 6.1.5. That Council received a clean audit and the main reason for that was the commitment by management to implement their recommendations as well as the support of the Audit Committee in giving their independent view in cases where there were internal disputes between the auditors and management.
- 6.1.6. That they had performed procedures to obtain evidence that the ELRC had complied with applicable legislation regarding financial matters, financial management and other related matters.
- 6.1.7. That they did not identify any instances of material non-compliance with specific matters in the key applicable laws and regulations.
- 6.1.8. That their Audit Report was that of an unqualified opinion
- 6.1.9. That they considered internal control relevant to their audit of the financial statements, reported performance information and compliance with applicable legislation; however, their objective was not to express any form of assurance on it.
- 6.1.10. That they did not identify any deficiencies in internal control which they considered sufficiently significant for inclusion in this report.
- 6.1.11. That in terms of the IRBA rule published in Government Gazette Number 39475 dated 4 December 2015, they were reporting that Ngubane and Company (Jhb) Inc. has been the audit of the ELRC for a period of 4 years of which 3 years was in the previous tender cycle dated June 2016 to July 2018 and 1 year under the reappointment of auditors awarded on August 2018.
- 6.1.12. That Nomathamsanqa Ashom who was the Director on the engagement has been involved in the audit of the ELRC for the financial period ended 31 March 2018 and 31 March 2019.

7. THE INDEPENDENT REPORT OF THE AUDIT COMMITTEE

- 7.1. Mr S A Ngobeni tabled the Audit Committee Report and highlighted the following:
 - 7.1.1. That the ELRC constitution required the Audit Committee of the Council to review the audit report of the External Auditor, the audited financial statements, the management report, and management's comments on the audited financial statements.
 - 7.1.2. That the Audit Committee assisted the Executive Committee in fulfilling its oversight responsibilities, in particular, the evaluation

- of the adequacy and efficiency of accounting policies, internal controls, financial reporting processes and risk management.
- 7.1.3. That the Audit Committee assessed the effectiveness of the Internal Auditor and the independence and effectiveness of the External Auditors.
 - 7.1.4. That the Audit Committee had adopted appropriate formal terms of reference as its Audit Committee Charter, which has been approved by the Executive Committee.
 - 7.1.5. That the Audit Committee reports that it has operated and performed its oversight responsibilities independently and objectively in compliance with the Audit Committee Charter and the ELRC constitution.
 - 7.1.6. That the Audit Committee consisted of the following members: Mr SA Ngobeni (Chairperson), Ms T Sihlaba, Mr B Mbewu (resigned) and was replaced by Mr C Motau, Mr M Maluleke (Labour) and the Employer.
 - 7.1.7. That the Audit Committee met five times during the 2018/19 financial year.
 - 7.1.8. Expressed concern that the Employer had not attended any of those meetings.
 - 7.1.9. That the Audit Committee was extremely satisfied that the internal audit function was operating effectively and that it has addressed the risks pertinent to the entity in its audits.
 - 7.1.10. That they were satisfied with the content and quality of Quarterly reports prepared and issued by the internal auditors of the entity during the year under review.
 - 7.1.11. That the system of internal control employed by the ELRC to financial and risk management was effective, efficient and transparent.
 - 7.1.12. That risk management was progressing very well, and the Audit Committee was comfortable.
 - 7.1.13. That the Audit Committee reviewed the financial statements prepared by the Council and acknowledge the role that the Executive Committee played as quarter to quarter they recommend to EXCO and have been helpful in assisting the Audit Committee to implement its recommendations.
 - 7.1.14. That they reviewed the in-year quarterly reports submitted together with internal audit comments and noted a significant improvement in the content and quality of the prepared and submitted by management.
 - 7.1.15. That the Audit Committee had met with the External Auditor to ensure that there were no unresolved issues.
 - 7.1.16. That the Audit Committee concurred and accepted the conclusions of the External Auditor on the annual financial statements and was of the opinion that the audited annual financial statements be accepted and read together with the report of the External Auditor.
 - 7.1.17. That they appreciated the support of Council as a whole, the Executive Committee, the General Secretary and ELRC staff members and the External Auditor.
 - 7.1.18. Appreciated the support from the Internal Auditor.

7.1.19. That the Audit Committee recommended the adoption of the audited Financial Statements and the Annual Report by the Executive Committee.

8. ADOPTION OF THE ANNUAL REPORT OF THE COUNCIL, INCLUDING THE FINANCIAL STATEMENTS

8.1. The Employer congratulated Council on the clean audit achieved and moved for the adoption of the Annual Report including the financial statements.

8.2. SADTU indicated the following:

8.2.1. Commended the leadership of the ELRC together with staff members for the good they were doing.

8.2.2. Commended the overall performance of the ELRC and those programmes that achieved 100% which was attributed to the hard work done by staff members of the ELRC.

8.2.3. Seconded the adoption of the Annual Report including the financial statements.

8.3. CTU-ATU concurred with the comments made by the Employer and SADTU and seconded the adoption of the Annual Report including the financial statements.

8.4. The Chairperson thanked the General Secretary, CFO, Internal Audit and ELRC staff members for work well done. Thanked the Audit Committee for assisting Council and work well done.

Decision 2:

The Annual Report of the Council, including the financial statements was unanimously adopted.

9. THE LEVIES TO BE IMPOSED ON EDUCATORS

9.1. The General Secretary indicated the following:

9.1.1. That Council was in the third year of implementing Collective Agreement 5 of 2016 "*Levy Agreement*" for a period of 5 years.

9.1.2. That the process of having the levies revised would start in the current year to allow parties sufficient time to get their mandates.

10. THE APPOINTMENT OF MEMBERS OF THE AUDIT COMMITTEE

10.1. The General Secretary indicated the following:

10.1.1. Confirmed that the current term of the Audit Committee was still valid.

- 10.1.2. That the Audit Committee constituted three independent members: Mr S Ngobeni, Ms T Sihlaba and Mr C Motau.
- 10.1.3. That Labour was represented by Mr M Maluleke and the Employer was represented by Ms K Matjiu, however such would be confirmed by the parties.
- 10.1.4. Recommended that the AGM confirm the three independent members of the Audit Committee.

10.2. SADTU expressed concern about the non-attendance of the Employer at Audit Committee meetings.

10.3. SADTU moved and the Employer / CTU-ATU seconded the indorsement of the independent members of the Audit Committee.

Decision 3:

The independent member of the Audit Committee are:

Mr S Ngobeni	Independent member
Ms T Sihlaba	Independent member
Mr C Motau	Independent member

11. THE APPOINTMENT OF A CHAIRPERSON OF THE AUDIT COMMITTEE

11.1. The General Secretary indicated that Mr S A Ngobeni would remain as Chairperson of the Audit Committee.

Decision 4:

Mr S A Ngobeni remains as Chairperson of the Audit Committee.

12. THE APPOINTMENT OF MEMBERS OF THE EXECUTIVE COMMITTEE

12.1. The General Secretary requested that Parties to Council submit names of their Executive Committee members to the Secretariat within 14 days.

Decision 5:

Parties to Council to submit names of their Executive Committee members to the Secretariat within 14 days.

13. THE ELECTION OF THE CHAIRPERSON AND DEPUTY CHAIRPERSONS

13.1. Nomination for Chairperson

- 13.1.1. The General Secretary thanked the Chairperson and Deputy Chairpersons for their support over the past year and indicated that the Employer, SADTU and CTU-ATU had nominated Adv L Bono as the Independent Chairperson of Council.
- 13.1.2. The Employer moved and SADTU / CTU-ATU seconded the appointment of Adv L Bono as the Independent Chairperson of Council.

Decision 6:

Adv L Bono was unanimously elected as the Independent Chairperson of Council.

13.2. Nomination for Deputy Chairpersons

- 13.2.1. The General Secretary indicated that the Employer nominated Mr H Ngwenya and Adv J K Moshotle as Deputy Chairpersons of Council.
- 13.2.2. CTU-ATU and SADTU supported the nomination.
- 13.2.3. The General Secretary indicated that CTU-ATU nominated Mr S Viljoen as Deputy Chairperson of Council.
- 13.2.4. The Employer and SADTU supported the nomination.
- 13.2.5. The General Secretary indicated that SADTU nominated Mr M Cele as Deputy Chairperson of Council.
- 13.2.6. The Employer and CTU-ATU supported the nomination.

Decision 7:

Mr M Cele, Mr S Viljoen, Mr H Ngwenya and Adv J K Moshotle were unanimously elected as Deputy Chairpersons.

14. ADOPTION OF EXECUTIVE COMMITTEE CHARTER

- 14.1. The General Secretary tabled the Executive Committee Charter and indicated that the Executive Committee recommended the Executive Committee Charter to Council at the Annual General Meeting for ratification.
- 14.2. The Employer moved and SADTU / CTU-ATU seconded the ratification of the Executive Committee Charter.

Decision 8:

The Executive Committee Charter was unanimously ratified.

15. CLOSURE

The meeting closed at 13H34 with a vote of thanks by the Chairperson.

CHAIRPERSON

GENERAL SECRETARY

DATE