



REPORT TO EXECUTIVE MAYOR
COUNCIL

DATE

1. ITEM NUMBER **C 29C/05/16**

2. **ARRANGEMENTS FOR CERTAIN EARLY CHILDHOOD DEVELOPMENT CENTRES IN RELATION TO PAYMENT OF DEVELOPMENT CHARGES UNDER CERTAIN CIRCUMSTANCES**

REELINGS VIR BETALING VAN ONTWIKKELINGSGELDE VIR SEKERE VROEëKINDONTWIKKELINGSENTRUMS IN SEKERE OMSTANDIGHEDA

**IZICWANGCISO EZIJOLISWE KUMAZIKO ATHILE OKUPHUCULA
ABANTWANA ABASELULA NGOKUPHATHELENE NOKUHLAWULA
IINDLEKO ZOPHUHLISO PHANTSI KWEEMEKO EZITHILE**

G3858, G4760

3. **STRATEGIC INTENT**

- Opportunity City
- Safe City
- Caring City
- Inclusive City
- Well-run City

Programme 1.1(e) Planning and regulation

Whilst adherence to the City's Development Charges (DC) Policy is important for continued service provision to create an enabling environment for economic growth and sustaining the provision of required services, this must be done in a balanced manner that does not prejudice competing objectives, including access to social services like early childhood development centres, especially in vulnerable communities.

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AMH

4. PURPOSE

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The purpose of this report is to consider implementing an arrangement for the payment of development charges (DCs) by early childhood development (ECD) centres under certain defined circumstances, in terms of section 11(b)iii of the Policy on Development Charges for Engineering services, 2014.

5. FOR NOTING / DECISION BY

For consideration and recommendation by the Executive Mayor and decision by Council.

In this instance, the policy (on Development Charges for Engineering Services) already exists and was approved by Council on 29 May 2014. The policy provides that Council can resolve to exempt the payment of development charges by calculating the full liability for DCs and make budgetary provision for the realization of the associated revenue forgone from another realistically available source either through a specific capital transfer or an alternative capital budget vote (11.4 b) The Executive Mayor is requested to consider such a proposal and make a recommendation to Council in this regard.

6. EXECUTIVE SUMMARY

Planning legislation enables the City to impose a requirement for applicants and developers to pay a once-off development charge (also known as bulk infrastructure contribution levies or development contributions) where new or additional land use and development rights are granted. The payment of such DCs are required to cover the cost of municipal engineering services required by and the additional impact on the City's bulk infrastructure networks as a result of and associated with such approved development or land use. This financing mechanism ensures the cost associated with infrastructure provision and development is borne by the beneficiaries or owners of such a development and that the City's normal ratepayers are not burdened with this.

Guided by the City's Policy on Development Charges for Engineering Services (as adopted by Council on 29 May 2014), imposing such requirement as conditions of approval in new developments is standard practice throughout the City. This financing mechanism is important to ensure the financial sustainability of the City and that it is able to continue providing basic services to its citizens and consumers, thereby creating an enabling environment for economic growth and attractive investment destination as part of the Opportunity City objective. Notwithstanding and over and above financial sustainability, the City of course has other competing strategic objectives which it must balance, for instance ensuring access by communities to appropriate ECD services.

The Development Charges Policy sets out in detail which development types attract this charge and to what extent. It also identifies a number of more minor application and development types which doesn't attract DCs due to its insignificant additional impact on bulk infrastructure networks. Amongst others, this includes small scale ECD centres accommodating up to 34 children per establishment. Where ECDs are larger than this threshold, development charges are indeed imposed when approving these new ECD centres. Whilst it is generally discouraged as it would undermine the policy objectives and the City's ability to provide service infrastructure in a financially sustainable manner, the policy also sets out the circumstances under which exemptions from such charges could be considered in a fair and responsible manner. Where such exemption is considered appropriate, a Council resolution on the matter is required.

As part of the Western Cape Government's drive to register ECD centres, the City (and more specifically the Social Development and Early Childhood directorate and the Planning and Building Development Management department) has been actively encouraging existing unregistered centres to formalize and obtain necessary land use rights in order to be able to access the grants that are available to these institutions and drawing them into the controlled environment.

On 10 June 2015, the Spelum committee considered 3 applications for regularising of existing ECD centres at single residential dwellings in the Khayelitsha and Eesterivier areas. As these applications all exceeded the DC non-payable threshold, payment of DCs are triggered (in these cases ranging from R33 000 to R277 000) and would have to be imposed as a condition should they be approved. However, due to the applicants indicating that they would be unable to comply with such a condition to pay the charges due to their socio-economic circumstances, TCT objected to the applications. Due to affordability constraints, this is now leading to a situation where, in this instance, the DC requirement is having the unintended consequence of working against formalisation of these existing ECD centres to draw them in under regulatory control (thus achieving the opposite of the strategic objective in this regard).

As these 3 fairly large scale centres already exist, there would be no new or additional impact on the City's bulk infrastructure service networks other than what is already the case, albeit that in this case these centres obviously have not yet contributed financially to the provision of such bulk services, as all other developers / land users in the City does. Given this situation, and as they were otherwise considered acceptable from a town planning perspective (and as the alternative of refusing them and invoking enforcement to close them down was not considered appropriate), the recommendation tabled at Spelum was to approve the applications, and also deviate from the DC policy by not imposing a requirement to pay DCs in these 3 cases.

Recognising the above problem, Spelum declined to exercise their power to decide these cases, instead referring it to MayCo for decision but first calling for a report to consider the financial implications of not imposing DCs. As required in the DC Policy, this report considers the feasibility and impact of introducing an exemption for ECD centres under certain circumstances and recommends a way forward on this matter.

7. RECOMMENDATION

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It is recommended that it be recommended to Council that:

Not delegated: For decision by Council

- a) An exempt category be created for historically non-regularised Early Childhood Development (ECD) Centres as defined in section 8 of this report (in line with paragraph 11.4[a] of the Policy on Development Charges for Engineering Services [adopted 29 May 2014]).
- b) An amount of approximately R426 000 from accumulated surpluses (cost centre 19070162) be transferred at the end of the 2015/16 financial year to the relevant asset-financing fund to pay for the applicable development charges liabilities and revenue foregone in respect of such exempted Early Childhood Development (ECD) Centres (in line with paragraphs 11.4[b] and 11.5 of the Policy on Development Charges for Engineering Services [adopted 29 May 2014]).
- c) The above exemption be reviewed in 12 months' time and the Executive Director: Social & Early Childhood Development report annually to Council on the take up of same, including identification of the required funding.

AANBEVELING

Daar word aanbeveel dat daar aan die Raad aanbeveel word:

Nie gedelegeer nie: Vir besluitneming deur die Raad

- a) 'n Vrstellingskategorie vir histories niegeregulariseerde vroeëkindontwikkelingsentrums geskep word soos omskryf in deel 8 van hierdie verslag (in pas met paragraaf 11.4[a] van die beleid oor ontwikkelingsheffings vir ingenieursdienste [aangeneem op 29 Mei 2014]).
- b) 'n Bedrag van ongeveer R426 000 vanuit opgelope surplusse (kostesentrum 19070162) aan die einde van die 2015/16-boekjaar oorgedra word na die betrokke batefinansieringsfonds om te betaal vir die betrokke ontwikkelingsgelde en inkomste wat met sodanig vrygestelde vroeëkindontwikkelingsentrums verbeur is (in pas met paragraaf 11.4[b] en 11.5 van die beleid oor ontwikkelingsheffings vir ingenieursdienste [aangeneem op 29 Mei 2014]).
- c) Die bogenoemde vrystelling oor 12 maande hersien word en die uitvoerende direkteur: maatskaplike ontwikkeling en vroeëkindontwikkeling jaarliks aan die Raad verslag doen oor die insluitend die identifisering van die vereiste befondsing.

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ISINDULULO

Kundululwe ukuba makundululwe kwiBhunga:

Aziqunyaziswanga: isigqibo seseBhunga:

- a) Ukuba makumiselwe uluhlu olukhululiweyo lwamaziko ayimbali angagunyaziswanga oPhuculo lwaBantwana abaseLula (ECD) njengoko luchaziwe kwicandelo 8 lale ngxelo (ngokuhambelana necandelo 11.4(a) loMgaqo-nkqubo ongeeNtlawulo zoPhuhliso ngokujoliswe kwiiNkonzo zobuNjineli (owamkelwa ngowama-29 Meyi 2014).
- b) Ukuba imali eqikelelwa kuma-R426 000(iziko leendleko: 19070162) mayikhutshelwe ekupheleni konyaka-mali wama-2015/16 kwingxowa-mali efanelekileyo ejongene nokuxhasa ngemali impahla zeziko ukuze kuhlawulwe iintlawulo zophuhliso ezifanelekileyo kunye nengeniso emkileyo ngokujoliswe kuMaziko oPhuculo lwaBantwana abaseLula athe akhululwa , ngokuhambelana necandelo 11.4(b) kunye no-11.5 loMgaqo-nkqubo ongeeNtlawulo zoPhuhliso ngokujoliswe kwiiNkonzo zobuNjineli (owamkelwa ngowama-29 Meyi 2014).
- c) Ukuba oku kukhululwa kufuneka kuhlolwe kwisithuba seminyaka eli-12 kwaye uMlawuli weSigqeba kuPhuhliso lweNtlo yoLuntu noPhuculo lwaBantwana abaseLula makenze ingxelo yarhoqo ngonyaka kwiBhunga ngalo mba ufanayo, kuquka nokuchaza inkxaso-mali efunekayo.

8. DISCUSSION / CONTENTS

As part of a series of studies into community facility and recreational space provision standards in Cape Town, and given the backlogs associated with early childhood development services, the CSIR was commissioned to undertake an analysis of the supply and demand for ECD services and the ease of accessing it. As part of this, the study identified areas experiencing severe shortage in ECD capacity and made recommendations for City intervention by establishing ECD centres of excellence in identified locations.

Areas with high densities of unserved population (ie where there is thus a major backlog of ECD capacity) were identified as including Langa, Retreat, Phillipi parts of Somerset-West (Nomzamo) and Bellville (Belhar), and especially Gugulethu and Khayelitsha. Areas identified in the study as optimal location for intervention by means of establishing an ECD centre of excellence include:

- Khayelitsha
- Belhar
- Crossroads
- Phillipi
- Bonteheuwel
- Bishop Lavis
- Elsiesrivier
- Eersterivier
- Belhar

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As evident from the above, should it be considered appropriate to make alternate arrangements for some ECD centres from having to pay development charges, the pertinent aspects of the policy require that

- a defined category of land use (which may include geographic areas) be identified for such exemption,
- an estimation be made of the quantum of such exemptions (and revenue potentially forgone) that may be granted, and
- alternative funding be identified to cover the DC liability.

Given the backlog status quo in some areas as illustrated by the CSIR study (as well as the known lack of formalisation or registration by many ECD centre operators), it is likely that there may be a substantial number of ECD centres with capacities larger than 34 children that might find themselves in the same predicament than the 3 cases mentioned earlier in this report.

As it would likely be impossible to exempt all non-compliant facilities and find alternative funding to cover their DC liability, a possible approach could be to restrict such an exemption benefit to the geographic areas with the greatest backlogs. Subject to identifying alternative funding, such an exemption benefit could also be applied on a 'first come, first served' basis, much like the DC debt deferral / write-off incentive is applied in the Atlantis industrial area (where an annual amount of R10m is made available for this purposes on a 'first come, first served' basis).

Should it be considered appropriate to define a category of ECD centres eligible for DC exemption as described above (ie only centres located in the areas identified in the CSIR study for intervention), it is estimated that the number of centres that could be eligible in these areas could be around as many as 150 centres of varying sizes. To balance the need for assistance to ECD centres through a DC exemption with the need to ensure financial sustainability in providing bulk infrastructure services in Cape Town, it would be appropriate to consider the total value of such exemptions anew annually, based on dedicated additional capital funding identified and made available during the normal budget process or the annual adjustment budget.

Given the above, it is therefore suggested that, in line with section 11.4(a) of the Policy on Development Charges for Engineering Services (adopted 29 May 2014), a category of land use be created that would be exempted from attracting DCs as per the above policy, and that such exemption be defined as follows:

Exempted category: Historically non-regularised Early childhood development (ECD) centres

- Facility must satisfy following criteria in full:
 - Must be a legal entity / juristic person in the form of a registered NPO and also registered as such and in good standing with SARS
 - Must have an adopted constitution and a management committee that meets regularly (evidence of both of which must be made available to the City's Social Development & ECD directorate)
 - Must be located within any of the areas identified (by CSIR June 2011 study) as having greatest un-serviced population / historic backlogs

- Facility and premises must be in compliance with City by-laws generally (apart from land use and/or building / fire safety regulations)
- Principal and/or staff at the facility must have recognised ECD qualifications or must be in the process of obtaining it
- Operator must have concluded a 'social contract' agreement (containing certain undertakings) with the Social Development & ECD Directorate of the City
- This arrangement is available to owners / operators on a 'first-come, first-served' basis, cumulatively up to the annual budgetary provision made available by the City (as per its discretion) for this purpose

8.1. Constitutional and policy implications

Legislation that applies include:

- Children's Act, 38 of 2005 (as amended) and its regulations
- City of Cape Town's Environmental Health By-law
- City of Cape Town Zoning Scheme regulations

The City's Policy on Development Charges for Engineering Services (adopted on 29 May 2014) aligns with national government's Policy Framework for Municipal Development Charges, 2011, as well as the Cape Town Municipal Planning By-law, 2015 and the Western Cape Land Use Planning Act, 2014.

8.2. Sustainability implications

Does the activity in this report have any sustainability implications for the City? No Yes

The DC financing mechanism facilitates sustainable municipal infrastructure provision and development, an important prerequisite for economic growth and job creation. This must be balanced with other City policy objectives, eg the provision of social services, in a financially sustainable manner. The City's DC policy permits exemption from DC liability under limited and controlled circumstances, and in a fair and responsible manner.

8.3. Financial implications

Operating budget implications

It is anticipated that the calculated capital expenditure funding requirement (CRR: DC - TCT DC) will be facilitated and met via a rate-funded appropriation to the reserve at financial year-end.

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The anticipated cost of approximately R 426 000 will be debited to budget centre 19070023 and cost element 480 000.

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OPERATIONAL BUDGET
 BEDRYFSBEGROTING
 26 APR 2015
 UHLAHO LWABIWO-MALI
 OLUSETYENZISWAYO

8.4. Legal implications

Amongst others, the Children's Act, 38 of 2005 (as amended) and its regulations applies.

8.5. Staff implications

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

- No
- Yes

8.6. Other Services consulted

- TCT (Asset Management & Maintenance) – Johan Snyman / Hilton Scholtz
- Social & Early Childhood Development Services – Andile Wotshela / Henk Nel
- ED: EESP – Japie Hugo
- Planning & Building Development Management department – Jaco van der Westhuizen
- Director: Budgets – Johan Steyl

FOR FURTHER DETAILS, CONTACT:

NAME	Andile Wotshela / Hilton Scholtz
CONTACT NUMBERS	021 417 4088
E-MAIL ADDRESS	Andile.Wotshela@capetown.gov.za
DIRECTORATE	Social & Early Childhood Development Services
FILE REF NO	



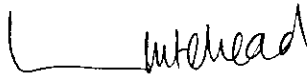
EXECUTIVE DIRECTOR: SD & ECD
Ernest Sass

NAME

DATE

05/04/2016

Comment:



COMMISSIONER: TCT
Melissa Whitehead

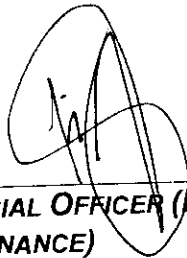
NAME

Melissa Whitehead

DATE

5/4/2016.

Comment:



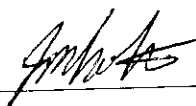
CHIEF FINANCIAL OFFICER (EXECUTIVE
DIRECTOR: FINANCE)
Kevin Jacoby

NAME

DATE

28/4/2016

COMMENT:



LEGAL COMPLIANCE

Riaana Sayed

REPORT COMPLIANT WITH THE PROVISIONS OF
COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS
AND ALL LEGISLATION RELATING TO THE MATTER
UNDER CONSIDERATION.

NDN-COMPLIANT

Making progress possible. Together.

NAME Joan-Mari Holt

Comment:

TEL 021 400 2753

DATE 12/05/2016

JMH
Certified as legally compliant:
Based on the contents of the report.

A. G. R. m

EXECUTIVE DIRECTOR: CORPORATE SERVICES AND COMPLIANCE (ED: CORC)

GERHARD RAS

SUPPORTED FOR ONWARD SUBMISSION TO MAYOR / MAYCO COUNCIL

NOT SUPPORTED

REFERRED BACK

DATE 13/5/16

COMMENT:

COMMENT:

COMMENT:

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MAYORAL COMMITTEE MEMBER: SD & ECD
Cllr Suzette Little

NAME Suzette Little

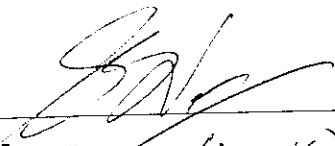
DATE 16/5/2016

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MAYORAL COMMITTEE MEMBER: TCT
Cllr Brett Herron

NAME BRETT HERRON

DATE 16/05/2016



EXECUTIVE MAYOR (ACTING)

~~ALD PATRICIA DE LILLE~~

IAN NEILSON

- SUPPORTED FOR ONWARD SUBMISSION TO MAYCO COUNCIL
- PC RECOMMENDATION
- RECOMMENDATION AS CONTAINED IN ORIGINAL REPORT
- ALTERNATIVE RECOMMENDATION TO BE REFLECTED BELOW

APPROVED I.T.O. DELEGATED AUTHORITY

NOTED

REFUSED

REFERRED BACK

DATE

23/5/2016

COMMENT:
