

ITEM NUMBER: C 08/04/21

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 6 APRIL 2021**MC 15/04/21 REVIEW OF MAYOR'S SPECIAL FUND POLICY**

Ald. JP Smith proposed that clause 6.1(e) of the revised Mayor's Special Fund Policy, attached as Annexure A to the report on the agenda, be removed as it is covered by clause 6.7(b). The amended clause 6.1 to read as follows:

6.1 The Fund may be used for –

- a) causes that will promote the profile of the City both nationally and internationally;*
- b) cases of hardship;*
- c) emergency or disaster situations where the City has no other provisions that can be utilised;*
- d) the specific use and conditions as may be set out by a donor to the Fund; or*
- e) travelling, accommodation or subsistence of individuals or teams participating in events such as sport or cultural activities only when the Mayor is satisfied that it is a real need as a result of being disadvantaged.*

The above proposal was duly supported.

It is **RECOMMENDED** that Council:

- (a) repeal the existing Mayor's Special Fund Policy, which was previously approved by Council on 28 September 2011 vide item C 62/09/11, attached as Annexure B to the report on the agenda;
- (b) adopts the revised Mayor's Special Fund Policy, attached as Annexure A to the report on the agenda, subject to the removal of clause 6.1(e) and the amendment of clause 6.1 to read as follows:

6.1 The Fund may be used for –

- a) causes that will promote the profile of the City both nationally and internationally;*
- b) cases of hardship;*

- c) *emergency or disaster situations where the City has no other provisions that can be utilised;*
- d) *the specific use and conditions as may be set out by a donor to the Fund; or*
- e) *travelling, accommodation or subsistence of individuals or teams participating in events such as sport or cultural activities only when the Mayor is satisfied that it is a real need as a result of being disadvantaged.*



DATE: 23 MARCH 2021

REPORT TO: EXECUTIVE MAYOR , MAYCO, COUNCIL

1. ITEM NUMBER MC 15/04/21**2. SUBJECT****REVIEW OF MAYOR'S SPECIAL FUND POLICY****HERSIENING VAN BELEID OOR DIE BURGEMEESTER SE SPESIALE FONDS****UPHENGULULO LOMGAQO-NKQUBO OJOLISWE KWINGXOWA-MALI
EYODWA KASODOLOPHU****3. DELEGATED AUTHORITY**

In terms of Part 1 (Executive Mayor): Delegation 11(1) of the Council's System of Delegations, as amended by Council vide resolution C 05/03/20, which reads as follows:

- (1) To determine appropriate policies that should be developed, to take steps for the development thereof and to recommend such policies to Council.

This report is FOR DECISION BY

Committee name : NONE

The Executive Mayor together with the Mayoral Committee (MAYCO)

Council

4. DISCUSSION

Section 12 of the Municipal Finance Management Act permits a municipality to set up a relief, charitable, trust or other fund in the name of the municipality and to open a separate bank account for such purpose.

The Mayor's Special Fund was created for the purpose of authorising the Executive Mayor to allocate grants in respect of cases set out in the Fund guidelines in the Mayor's Special Fund Policy. The current Policy was approved by Council on 28 September 2011.

Making progress possible. Together.

The Policy has been reviewed and it is considered that only minor amendments need to be made. As such, the attached revised draft contains minor edits relating to the inclusion of definitions and clarification with regard to repeat commitments to an organisation.

Following consultation with the CFO, section 6.3 has been added to the policy to emphasise the subject of repeat commitment and 6.5 has been amended to provide for further clarification. Further, the policy has been reformatted with support of the Policy Branch to be aligned with the current City policy template.

In considering the approval process for these revisions, consultation with the Public Participation Unit and the Finance Department determined that public participation was not required for the proposed amendments for the Mayoral Fund Policy which is an internal instrument, whereby an agreement is established between Council and the Executive Mayor.

The City Manager has approved a deviation that the amendments needn't go through the Policy Co-ordinating Committee and the relevant PC based on the recommendation from the Public Participation Unit and Finance department. These determinations were made on account of the amends being clarification of existing policy rather than the full development of policy positions.

- 4.1. Financial Implications None Opex Capex
- Capex: New Projects
 - Capex: Existing projects requiring additional funding
 - Capex: Existing projects with no additional funding requirements

4.2. Legal Compliance

4.3. Staff Implications Yes No

4.4. Risk Implications Yes No

5. RECOMMENDATIONS

It is recommended that:

1. The Executive Mayor together with the Mayoral Committee consider the proposed amendments to the Mayor's Special Fund Policy
2. That the Executive Mayor together with the Mayoral Committee support and propose the draft Mayor's Special Fund Policy, attached as Annexure A, to Council for adoption.
3. That Council repeal the existing Mayor's Special Fund Policy (attached as appendix B).
4. That Council approves the Mayor's Special Fund Policy, attached as Annexure A.

AANBEVELINGS

Daar word aanbeveel dat:

1. Die burgemeesterskomitee die voorgestelde hersiening van die beleid oor die burgemeester se spesiale fonds oorweeg.
2. Die burgemeesterskomitee die konsepbeleid oor die burgemeester se spesiale fonds, aangeheg as bylae A, steun en voorstel dat die Raad dit aanneem.
3. Die Raad die bestaande beleid oor die burgemeester se spesiale fonds (aangeheg as bylae B) herroep.
4. Die Raad die beleid oor die burgemeester se spesiale beleid, aangeheg as bylae A, goedkeur.

IZINDULULO

Kundululwe ukuba:

1. IKomiti kaSodolophu weSigqeba mayithathele ingqalelo isiphakamiso sezilungiso kuMgaqonkqubo ongeNgxow mali eYodwa kaSodolophu.
2. IKomiti kaSodolophu weSigqeba mayixhase kwaye iphakamise kuMgaqonkqubo oluyilo ongeNgxowamali eYodwa kaSodolophu oqhotyoshelwe njengesihlomele A, kwiBhunga ukuze wamkelwe.
3. IBhunga malibhangise uMgaqonkqubo okhoyo ongeNgxowamali eYodwa kaSodolophu (oqhotyoshelwe njengesihlomele B)
4. IBhunga maliphumeze uMgaqonkqubo oluyilo ongeNgxowamali eYodwa kaSodolophu, oqhotyoshelwe njengesihlomele A.

ANNEXURES

Annexure A: Revised Mayor's Special Fund Policy

Annexure B: Existing Mayoral Fund Policy

FOR FURTHER DETAILS CONTACT

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DIRECTORATE	Office of the City Manager	FILE REF No	
SIGNATURE :			

CHIEF FINANCIAL OFFICER

NAME		COMMENT:
DATE		
SIGNATURE	Digitally signed by Kevin Jacoby Date: 2021.03.01 10:56:31 +02'00'	

PCC CHAIR

SUPPORTED FOR ONWARD SUBMISSION

NAME	Hugh Cole	COMMENT:
DATE		
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LEGAL VETTING

SUPPORTED FOR ONWARD SUBMISSION

NAME

Timothy
Zeeman

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Timothy Zeeman
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COMMENT:

LEGAL COMPLIANCE

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

NAME

Jason Sam
Liebenberg

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by Jason Sam
Liebenberg
Date:
2021.03.23
11:20:37 +02'00'

COMMENT:

Certified as legally compliant based on the contents of the report



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

CITY OF CAPE TOWN: MAYORAL FUND POLICY

REFERENCE CODE: (allocated by Executive Support on submission of draft)

DOCUMENT CONTROL

Relevant Department:

Version:

Date of Last Update:

Approval Status:

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DEFINITIONS AND ACRONYMS

'City' means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the Local Government: Municipal Structures Act, 1998, or any structure or employee of the City acting in terms of delegated authority;

'Council' means the Municipal Council of the City;

'Councillor' means a member of the Municipal Council of the City;

'Grant' means the giving of non-repayable money, goods or services to a natural person or an organisation and 'donate' has a corresponding meaning;

'Mayor' means the Executive Mayor of the City of Cape Town;

'MFMA' means the Local Government: Municipal Finance Management Act, 2003 (Act No.56 of 2003); and

'Organisation', a discernible grouping or individual with a developmental cause or need which includes, but is not limited to, a non-profit entity, benevolent society, non-governmental organisation and religious institution, irrespective of whether it is a legal person.

1. Problem Statement

The Mayor receives regular requests for grants, donations and financial assistance from members of the public and organisations. Most of these requests are dealt with through the City of Cape Town's allocation of *Section 67 Grants-in-aid Policy*, but some deserving requests fall outside of the ambit of the Policy.

2. Desired Outcomes

The establishment and effective administration of a Mayoral Fund ("Fund") for the purpose of allocating grants by the Mayor at his/her discretion in respect of applications made or at the Mayor's initiative in respect of cases set out in the Fund guidelines.

3. Strategic Alignment

It is intended that the Mayoral Fund supports the City's strategic objectives as set out in the Integrated Development Plan, specifically "The Caring City".

4. Regulatory Context

- 4.1 Section 12 of the MFMA regulates the establishment of "relief, charitable, trust or other funds":
- 4.1.1 Section 12(1) permits the establishment of a charitable, trust or other fund in the name of the City, with the municipal manager being the account officer of such a fund;
 - 4.1.2 Section 12(2) allows for the City to open a separate bank account in the name of the City for the purpose of such a fund;
 - 4.1.3 Section 12(3) determines that money received by the City for the purpose of such a fund must be paid into the bank account of the municipality, or if a separate bank account has been opened in terms of subsection (2), into that account; and
 - 4.1.4 Section 12(4) determines that money in a separate account opened in terms of subsection (2) may be withdrawn from the account without appropriation in terms of an approved budget, but only –
 - (a) by or on the written authority of the accounting officer acting in accordance with decisions of the municipal council; and
 - (b) for the purposes for which, and subject to any conditions on which, the fund was established or the money in the fund was donated.

5. Roleplayers and Stakeholders

- 5.1 In order to give effect to the policy, the following role players including their respective powers, duties and responsibilities are listed below:
- a) Organisations seeking assistance for which no provision has been made through the *Section 67 Grants-in-aid Policy* need to furnish information as may be requested to facilitate the consideration and possible release of grants from the fund.
 - b) The Mayor identifies an appropriate use and determines the amount as well as the beneficiary and forwards the request to the City Manager. The Mayor may impose conditions in respect of any grant made from the Fund. The Mayor must also report to Council on a quarterly basis in respect of the status of the Fund including amounts withdrawn, and the names of the beneficiaries. Any donations received must also be reported.
 - c) The City Manager or his nominee must assess the request and determine whether it meets the Guidelines set out above as is required by section 12(4) of the MFMA. Provided that

sufficient funds are available, the City Manager or his nominee will withdraw the amount from the Fund.

- d) Council may determine the maximum limit of any grant from time to time.

6. Policy Directives

6.1 The Fund may be used for —

- a) causes that will promote the profile of the City both nationally and internationally;
- b) cases of hardship;
- c) emergency or disaster situations where the City has no other provisions that can be utilised;
- d) the specific use and conditions as may be set out by a donor to the Fund;
- e) payment directly to any individual only on such condition as the Mayor will approve; and
- f) travelling, accommodation or subsistence of individuals or teams participating in events such as sport or cultural activities only when the Mayor is satisfied that it is a real need as a result of being disadvantaged.

6.2 A written agreement must be entered into with the recipient of the grant funding to ensure that the funds are used for the purpose intended.

6.3 A grant to an organisation for aiding communities in Cape Town in instances of individual or group hardship may be repeated.

6.4 The Fund may not be used for —

- a) any purpose that benefits a political party;
- b) the benefit of any Councillor or a family member or relative of any Councillor; or
- c) activities occurring outside the boundaries of the City, except in exceptional cases and only after approval by the Mayor in consultation with the Mayoral Committee.

6.5 Subject to 6.3, any grant from the Fund shall not result in repeat commitments nor may any expectation be created that funding will automatically be made available in future.

6.6 Grants from the Fund may not be used in conjunction with other City funding or grants.

6.7 Process for release of funds

- a) The Mayor identifies an appropriate use and determines the quantum of the grant, within any limitations set by Council, as well as the beneficiary and forwards the request to the City Manager.
- b) The Mayor may impose, in writing, conditions in respect of any grant made from the Fund.

- c) The City Manager or his/her nominee must assess the request and determine whether it meets the Guidelines set out above as is required by section 12(4) of the MFMA. Provided that sufficient funds are available, the City Manager or his/her nominee will withdraw the amount from the Fund.

6.8 Reporting Requirements

- a) The Mayor must report to Council on a quarterly basis in respect of the status of the Fund including amounts withdrawn, and the names of the beneficiaries.
- b) Any donations received into the Fund must also be reported.

6.9 Donations to the Fund

- a) Any member of the public or organisation may donate money to the Fund. The City may actively canvass for donations to the Fund.
- b) If a donor specifies conditions in respect of any donation, the donated amount may only be utilised in terms of those conditions.
- c) The Mayor may refuse any donation where the conditions attached are unacceptable to the Mayor.
- d) The City may appropriate to the Fund from its annual budget.

6.10 Grant Limits

- a) The Council may determine the maximum limit of any grant from time to time.

7. Implementation

- 7.1 The policy shall be implemented by the aforementioned stakeholders upon adoption by Council.

8. Monitoring, Evaluation and Review

- 8.1 Monitoring of compliance with this policy and the status of the Fund shall be undertaken by Council upon submission of the quarterly reports which it shall receive.
- 8.2 The Mayor will consider a review of this policy when it becomes apparent that any of the provisions within it are no longer effective in achieving its objectives. Following such review, any amendments to the policy will be presented to Council for consideration of their adoption.

Annexure B

CITY OF CAPE TOWN

MAYOR'S SPECIAL FUND POLICY

APPROVED BY COUNCIL:
28 SEPTEMBER 2011

C 62/09/11

CITY OF CAPE TOWN

MAYOR'S SPECIAL FUND

POLICY

CITY OF CAPE TOWN: MAYOR'S SPECIAL FUND 2011/12

1. Introduction

The Mayor receives regular requests for grants, donations and financial assistance. Most of these are dealt with through the City's allocation of Section 67 Grants Policy, but some deserving requests fall outside of the ambit of the Policy. A special fund has been established by the City and subjected to the guidelines set out below, the mayor is authorised to decide on the use of the Fund for grants to such exceptional beneficiaries.

2. Legal Framework

Section 12 of the MFMA permits the establishment of a "relief, charitable, trust or other fund" in the name of the City.

The City may open a separate bank account and any money received for the purpose of the fund must be paid into the fund.

Money paid into the separate bank account may be withdrawn from the account without appropriation in terms of an approved budget but only by or on the written authority of the accounting officer acting in accordance with the decisions of the council and for the purpose for which the fund was established.

3. Purpose of Fund

The Fund is created for the purpose of allocating grants by the Mayor at his/her discretion in respect of applications made or at the Mayor's initiative in respect of cases set out in the Fund guidelines.

4. Fund Guidelines

4.1 The fund may be used for:

1. Causes that will promote the profile of the City both nationally and internationally.
2. Cases of hardship
3. Emergency/ disaster situations where the City has no other provision to cater for the event.
4. The specific use and conditions as may be set out by a donor to the Fund.
5. Grants may be paid directly to any individual only on such condition as the mayor will approve.
6. Grants may be used for travelling, accommodation or subsistence of individuals or teams participating in events such as sport or cultural activities only when the Mayor is satisfied that it is a real need as a result of historical disadvantage.

4.2 A written agreement must be entered into with the recipient of the grant funding to ensure that the funds are used for the purpose intended.

5. Prohibited Uses

1. The Fund may not be used for any purpose that benefits a political party.
2. Appropriations may not benefit any member of the Council or a family or relative of any member of the Council.
3. Only in exceptional cases may grants be made for activities occurring outside the boundaries of the City and only after approval by the Mayor in consultation with the Mayoral Committee.
4. Any grant from the fund shall not result in repeat commitments nor may any expectation be created that funding will automatically be made available in future.
5. Grants may not be used in conjunction with other City funding or grants.

6. Process for Release of Funds

The Mayor identifies an appropriate use and determines the amount as well as the beneficiary and forwards the request to the City Manager. The Mayor may impose conditions in respect of any grant made from the Fund. The City Manager or his nominee must assess the request and determine whether it meets the Guidelines set out above as is required by S 12(4) of the MFMA. Provided that sufficient funds are available, the City Manager or his nominee will withdraw the amount from the Fund.

7. Reporting Requirements

The Mayor must report to Council on a quarterly basis in respect of the status of the Fund including amounts withdrawn, and the names of the beneficiaries. Any donations received must also be reported.

8. Donations to the Fund

- Any member of the public or organisation may donate money to the Fund. The City may actively canvass for donations to the fund.
- If a donor specifies conditions in respect of any donation, the donated amount may only be utilised in terms of those conditions.
- The Mayor may refuse any donation where the conditions attached are unacceptable to the Mayor.
- The City may appropriate to the fund from its annual budget.

9. Grant Limits

The Council may determine the maximum limit of any grant from time to time.