



28 September 2017

REPORT OF THE SELECT COMMITTEE ON PETITIONS AND EXECUTIVE UNDERTAKINGS ON THE HEARINGS OF THE LOVE KNYSNA PETITION, HELD ON 10 FEBRUARY 2016, 16 MARCH 2016 AND 24 MAY 2017, AT PARLIAMENT

1. BACKGROUND

The Love Knysna petition (petition) was referred to the Select Committee on Petitions and Executive Undertakings (Committee) by the Office of the Chairperson of the National Council of Provinces (NCOP) on 28 April 2015.

The Love Knysna petition is submitted by Mr M Hampton (Mr Hampton), a community activist and blogger from Knysna, in the Western Cape, and is further supplemented by Ms S Campbell, who similar to Mr Hampton is also a community activist from Knysna, in the Western Cape.

The petition submitted by Mr Hampton raises the following allegations against the Knysna Local Municipality (Municipality):

- 1.1 The alleged criminal funding of Knysna Tourism with tax payers' money;
- 1.2 The alleged illegal awarding of the Integrated Strategic Development Framework (ISDF) tender of the Municipality to Knysna Creative Heads, a consortium which had not scored the highest points during the tender process and is headed by a conflicted local property developer;
- 1.3 The alleged illegal appointment of Mr Grant Easton, as Municipal Manager by the Municipality and the irregularities committed following his appointment as Municipal



Manager as well as in his previous appointment as Chief Financial Officer (CFO) of the Municipality; and

- 1.4 The alleged unconstitutional blocking of his communication at both a local and provincial level as a result of the allegations contained in the petition.

In the petition submitted to Parliament, Mr Hampton further sets out the context and details on each of his allegations in this regard. The petition submitted by Mr Hampton, further provides that he seeks the intervention of the NCOP in investigating the various allegations he levels against the Municipality.

2. PURPOSE OF THE HEARINGS

The Committee held a total of three hearings on the petition at Parliament. The first hearing on the petition was held on 10 February 2016, the second hearing was held on 16 March 2016 and the third hearing on 24 May 2017.

The purpose of the hearings was to allow the main petitioner, Mr M Hampton, the main petitioner, and Ms S Campbell, the petitioner's witness, to make first hand oral submissions to the Committee on the petition. A further purpose of the hearings was to allow relevant stakeholders to also make submissions on the petition.

3. FIRST HEARING ON THE LOVE KNYSNA PETITION

The first hearing on the petition was held on 10 February 2016.

3.1 Committee Members and Officials

The following Committee Members were present at the first hearing on the petition:



- 3.1.1 Hon S G Thobejane, ANC, Limpopo;
- 3.1.2 Hon M J Mohapi, ANC, Free State;
- 3.1.3 Hon J M Mthethwa, ANC, Kwa-Zulu Natal;
- 3.1.4 Hon M T Mhlanga, ANC, Mpumalanga
- 3.1.5 Hon T Wana, ANC, Eastern Cape;
- 3.1.6 Hon D L Ximbi, ANC, Western Cape;
- 3.1.7 Hon M Chetty, DA, Kwa-Zulu Natal;
- 3.1.8 Hon B Engelbrecht, DA, Gauteng; and
- 3.1.9 Hon G Michalakis, DA, Free State;
- 3.1.10 Hon J J Londt, DA, Western Cape

The Committee Members present at the initial hearing on the petition, were supported by the following Committee officials:

- 3.1.11 Mr N Mkhize, Committee Secretary;
- 3.1.12 Dr M Gondwe, Committee Content Advisor; and
- 3.1.13 Ms A Zindlani, Committee Assistant, and
- 3.1.14 Ms N Fakier, Executive Secretary

3.2 Stakeholders

The first hearing on the petition was also attended by the following stakeholders:

- 3.2.1 Mr M Hampton, Petitioner;
- 3.2.2 Ms S Campbell, Petitioner's Witness;
- 3.2.3 Mr M J Brewis, Director, Department of Local Government, Western Cape Province;
- 3.2.4 Mr I Smith, Chief Director, Provincial Treasury, Western Cape Province; and
- 3.2.5 Mr E Pretorius, Head of Finance, Provincial Treasury, Western Cape Province.



3.3 Submissions by the Petitioner's Witness

Ms S Campbell (Ms Campbell) introduced herself as the legal adviser to ORPA and a member of the Knysna Environmental Forum. She further informed the Committee that her submissions will only focus on two of the issues raised in the petition – namely the alleged illegal awarding of the Integrated Strategic Development Framework (ISDF) tender of the Municipality to Knysna Creative Heads (KCH) and the alleged illegal appointment of Mr G Easton (Mr Easton), as the Municipal Manager of the Municipality.

3.3.1 The Alleged Illegal Awarding of the ISDF Tender to Knysna Creative Heads

Ms Campbell began her submissions to the Committee, by explaining that the ISDF was a process to review a number of policy documents for the Municipality including its Spatial Development Framework, Human Settlement Plan and Economic Development Plan. She further explained that all the documents reviewed will essentially determine the blue print of the Municipality for the next 30 years and it is for this reason that the awarding of the tender had called for highly skilled and non-conflicted professionals to be appointed for this important task.

Ms Campbell further informed the Committee, that along with Knysna Creative Heads (KCH), a Cape Town based company called City Think Space with highly skilled individuals and an impressive BEE rating score had applied for the ISDF and even tendered the lowest price but it was not awarded the tender. The tender was instead awarded to KCH, a consortium owned by Mr Mulder, a leading local developer who is known for various controversial development proposals outside the Provincial Urban Edge Guideline. Also according to Ms Campbell, even though KCH was awarded the tender, to her knowledge KCH had not tendered the lowest price nor had it attained the highest score. Moreover, the awarding of the tender to KCH posed a serious conflict of interest in that it gave a controversial local property developer the task of determining areas for future developments and where infrastructure spend will be directed within the Municipality.



Ms Campbell, also informed the Committee that the awarding of the tender to KCH in this respect, caused such a public outcry so much so that an unprecedented 133 people and groups, including herself, had lodged objections in relation to the awarding of the tender. However, the Municipality later informed them that there is no factual basis to their objections. She further informed the Committee, that the then-Municipal Manager had also failed to refer their objections to an independent and objective body for investigation as prescribed by the Municipal Supply Chain regulations. She added that the Municipality also accused her of being a disgruntled bidder for another tender and having a personal grievance against the head of KCH, Mr Chris Mulder, upon following up on why their objections had been ignored.

She further stated that in May 2014, the Mayor sent a request to the MEC of Local Government, Environmental Affairs and Development Planning, MEC Bredell (MEC Bredell), for the allegations against the awarding of the ISDF to be investigated however the matter was instead investigated by Provincial Treasury. The investigation by Provincial Treasury led to individuals from Provincial Treasury interviewing her and others. Thereafter, Provincial Treasury produced a summarised report on the matter but the report was not shared with members of the public despite it containing findings pointing to the awarding of the tender having had deficiencies. She also informed the Committee that the Municipality's Legal Department contested the findings of the Provincial Treasury report and informed Provincial Treasury its findings are wrong. The Deputy Mayor later wrote to Provincial Treasury and informed it that the Municipality considers the matter to be resolved.

In her submissions, Ms Campbell further informed the Committee that another major concern for her in this respect, is that the administration of the Municipality and the Municipal Council share the same legal manager and the stated legal manager failed to handle the ISDF process properly.

In concluding this aspect of her submissions, Ms Campbell reiterated her concerns that the Provincial Treasury report was never published by the Municipality and by this stage all the tender monies have been spent and there is, now, probably a request for additional monies to be allocated towards the tender.



3.3.2 Alleged Illegal Appointment of Mr Easton as Municipality Manager

In her submissions, on the alleged illegal appointment of Mr Easton as Municipal Manager, Ms Campbell began her submissions by stating that the post of Municipal Manager was advertised twice. She further stated that when the post was initially advertised only 3 white candidates made the shortlist and one of the candidates, Mr Lubbe, attained the highest scores for the interview. However, at a subsequent Municipal Council meeting, the Mayor indicated that she would like to re-advertise the post in an attempt to find a more representative candidate and she further indicated that, this time around, preference would be given to candidates who are able to speak English as well as Afrikaans or Xhosa.

Ms Campbell also pointed out that Mr Easton did not apply for the post when it was initially advertised and he only applied for the post when it was re-advertised. She further pointed out that Mr Lubbe reapplied for the post when it was re-advertised and after the interviews for the post were concluded, it emerged that Mr Easton had attained the highest score, Mr Lubbe had attained second highest score and Mr Rankgwana (who is in possession of a PhD in Public Administration) and spoke English and Afrikaans, had also scored fairly well for the interview. Ms Campbell indicated that because Mr Rankgwana had done fairly well in the interviews and he met the equity requirements for the post, she had expected him to be appointed for the post however Mr Easton, who is Scottish by birth and speaks only English and claims to be in possession of a Bachelor of Arts degree was appointed to the post.

Further in her submissions, Ms Campbell, maintained that Mr Easton achieved the highest score in the interview because he was interviewed by the both the Mayor and Deputy Mayor, both of whom he had previously worked with as CFO of the Municipality. Also of great concern, according to Ms Campell, is that Mr Easton was appointed as Municipal Manager without his qualification being verified by the South African Qualification Authority (SAQA) and although MEC Bredell was notified in writing of this omission, there has been no formal response from his Office on the matter. She further submitted that Mr Easton is currently being paid 9% more than the prescribed amount as Municipal Manager of the Municipality



and, to her knowledge, the Municipality has not obtained the necessary permission to pay him 9% more than the prescribed amount.

3.4 Submissions by the Petitioner

Mr Hampton introduced himself to the Committee as a community activist and an avid blogger, who blogs from the following internet platforms: www.loveknysna.com and www.knysnakeep.org. Mr Hampton further submitted that he will make submissions on the issues of the alleged illegal appointment of Mr Easton as Municipal Manager of the Municipality; the alleged illegal funding of Knysna Tourism with tax payers' money; and the unconstitutional blocking of his communication at provincial and local levels.

3.4.1 The Alleged Illegal Appointment of Mr Easton as the Municipal Manager

With regards to the alleged illegal appointment of Mr Easton as Municipal Manager, Mr Hampton submitted that prior to his appointment as Municipal Manager, Mr Easton served as the as the CFO of the Municipality and both his tenures as CFO and Municipal Manager of the Municipality are marked with several irregularities, which include, amongst others, the following:

- 3.4.1.1 The Auditor-General reviewing R9 million in irregular tenders awarded by the Municipality, to local tenderers who had not only failed to attain the highest score but also failed to submit a BBBEE certificate;
- 3.4.1.2 An individual contractor being awarded most of the electrical work from the Municipality's Electrical Department;
- 3.4.1.3 A cheque in the amount of R498 560 being issued to KCH prior to it being awarded the ISDF tender;
- 3.4.1.4 Upgrades to the Municipal Council offices being carried out over and above the allocated budget;



- 3.4.1.5 Service delivery protests taking place following a failure by the Municipality to provide adequate housing;
- 3.4.1.6 Edward Nathan Sonnenbergs being paid an amount of approximately R670 000 to conduct a forensic investigation into the suspension of 4 officials who were formerly employed at the Knysna Vehicle Testing Station;
- 3.4.1.7 The Bid Evaluation Committee members quitting the Committee in November 2014 after claiming interference by senior management with their work;
- 3.4.1.8 Tender documents for Tender, T29/2014 going missing and no police investigation being ordered into the matter;
- 3.4.1.9 A restaurant named Senza being allowed to owe the Municipality R4 million in rent and rates;
- 3.4.1.10 An amount of R2 million being awarded to Ward Councillors to spend as they wish in their respective wards without them having to consult members of the public on how the money should be spent; and
- 3.4.1.11 Knysna Tourism (KT) being illegally funded using tax payer monies.

In concluding this aspect of his submissions, Mr Hampton, informed the Committee that Mr Easton has not been held accountable for any of these irregularities.

3.4.2 The Alleged Illegal Funding of Knysna Tourism with Tax Payers' Money

As regards, the alleged illegal funding of KT, Mr Hampton submitted that that KT, a private section 21 company, is being illegally funded with tax payers' by the Municipality. Mr Hampton further submitted that KT and the Municipality had concluded a Service Level Agreement (Service Level Agreement) in terms of which KT receives its primary funding from a grant-in-aid however this grant-in-aid, is the only grant-in-aid that the Municipality's Grant in Aid Committee does not assess or process thereby seriously compromising Supply Chain Management processes at the Municipality.



He further informed the Committee that KT had run at a loss for four years in a row and it was bailed out each time by a grant-in-aid from the Municipality in the amount of R4 million to R4,5 million per year. Mr Hampton also stated that in terms of the Agreement, 20% of funds received by KT from the Municipality, are required to go towards development but instead the vast majority of KT's funds are channelled towards paying consultants and the salary of the entity's Office Manager.

Mr Hampton also pointed out that the other anomaly with KT, is that politicians sit on its board and are also expected to be responsible for its governance. He also added that the previous CEO was found guilty of misconduct yet he was given a golden handshake of R270 000 after signing a non-disclosure agreement. Mr Hampton further informed the Committee that for 2 years KT ran without a CEO and this resulted in KT being controlled by a few board members. The most involved director at this time, according to Mr Hampton, was Greg Vogt and during this time KT also appointed Mr Dirk Joubert however the tender for the services he rendered to KT in terms of the consultancy was never advertised.

Mr Hampton, further submitted that the most of the former directors of KT presently occupy key positions in the Municipality including that of Deputy Mayor, the Speaker and the ANC Chief Whip. He also informed the Committee that Mr Easton had also occupied a position on KT's Financial Sub-Committee. Mr Hampton further stated that at his request the Public Protector had contacted the then Municipal Manager, Ms Lauren Waring, in relation to the funding of KT, and she had refused to assist the Office of Public Protector on the basis that KT is a private entity and not a public entity.

In concluding this part of his submissions, Mr Hampton submitted that in an attempt to get answers to the questions he had on the issue and other issues raised in the petition, he had approached Honourable Londt, an alternate Member of the Committee, the Western Cape MEC for Agriculture, Tourism and Economic Development, MEC Winde (MEC Winde), and Premier Zille but received little or no assistance.



3.4.3 The Alleged Unconstitutional Blocking of Mr Hampton's Communications

In relation to the unconstitutional blocking of his communications, Mr Hampton emphasised that in his attempts to get answers to the issues he raises in the petition he had approached approximately 60 people and organisations ranging from the Mayor and Deputy Mayor of the Municipality to MEC Winde and Premier Zille but to no avail.

He further stated that the Municipality had responded to his attempts by blocking communication with him and discrediting him through local newspapers. In the latter regard, he informed the Committee that one of the local newspapers had published a 900-word open letter against him written by the Speaker of the Municipality and the same newspaper had prevented him from responding to the open letter because it did not want to lose the advertising funding it received from the Municipality.

Also according to Mr Hampton numerous cases have been opened against him by, amongst others, the Deputy Mayor of the Municipality and an ex-DA Councillor however the cases relate to the personal actions of harassment and *crimen injuria* and have no bearing on the merits of the allegations he levels against the Municipality in the petition. He also stated there is also a High Court order against him and it prevents him from speaking about the personal life of the Deputy Mayor.

3.5 Submissions by the Western Cape Department of Local Government

In his submissions to the Committee, Mr MJ Brewis (Mr Brewis), a Director at the Department of Local Government, Western Cape Province (Department), submitted that the bulk of the issues raised in the petition fall within the competence of the Municipality. But noted that the Department exercises oversight over the issues relating to the awarding of the ISDF tender and the appointment of the Municipal Manager. Mr Brewis then requested the Committee to afford the Department more time to respond to these issues in writing give that the Department's response to the issues will require thorough consultation with the Municipality.



3.6 Submissions by Provincial Treasury

In his submissions to the Committee, Mr E Pretorius, (Mr Pretorius), a Chief Director at Provincial Treasury, Western Cape Province (Provincial Treasury), informed the Committee that he is only in a position to respond to the issue relating to the awarding of the ISDF tender given that it was brought to the attention of Provincial Treasury. He further informed the Committee that after the Mayor had requested an investigation into the awarding of the ISDF tender, they had recommended to MEC Bredell, as the lead agent of the Municipal Finance Management Act 56 of 2003, that a Provincial Treasury Task Team be established for purposes of investigating the awarding of the ISDF tender. This Task Team, according to Mr Pretorius included, amongst others, Provincial Treasury's internal legal services and the head of procurement. Also according to Mr Pretorius, as part of its investigations the Task Team interviewed several witnesses, including Ms Campbell, and also gathered vital information. Thereafter the Task Team compiled a report of its findings and the report and its findings were submitted to the Municipality. The Municipality subsequently contested the findings of the report and submitted additional information (including its procurements policies) in support of its contestations. He also noted that at some stage the Office of the Public Protector contacted Provincial Treasury in order to determine if it should also investigate the matter.

Mr Pretorius concluded his submissions by assuring the Committee that in so far as the ISDF of the Municipality is concerned, the Provincial Treasury takes the view that it is a work in progress and it continues to engage with the Municipality on its ISDF. He further noted that because the Supply Chain Management (SCM) environment is a difficult and complex one and characterised by a constantly changing framework, the Provincial Treasury had hosted an SCM workshop in November 2014, which was attended by all 32 of the Province's municipalities. The workshop was aimed at addressing the SCM related challenges that the various municipalities were experiencing and also aimed at capacitating and assisting the Municipalities with procurement processes.

4. SECOND HEARING ON THE LOVE KNYSNA PETITION



4.1 Committee Members and Officials

The following Committee Members were present at the second hearing on the petition:

- 4.1.1 Hon S G Thobejane, ANC, Limpopo;
- 4.1.2 Hon M J Mohapi, ANC, Free State;
- 4.1.3 Hon J M Mthethwa, ANC, Kwa-Zulu Natal;
- 4.1.4 Hon T Wana, ANC, Eastern Cape
- 4.1.5 Hon D L Ximbi, ANC, Western Cape;
- 4.1.6 Hon M Chetty, DA, Kwa-Zulu Natal;
- 4.1.7 Hon B Engelbrecht, DA, Gauteng;
- 4.1.8 Hon G Michalakis, DA, Free State;
- 4.1.9 Hon J J Londt, DA, Western Cape; and
- 4.1.10 Hon T Mokwele, EFF, North West

The Committee Members present at the second hearing, on the petition, were supported by the following Committee officials:

- 4.1.11 Mr N Mkhize, Committee Secretary;
- 4.1.12 Dr M Gondwe, Committee Content Advisor;
- 4.1.13 Adv T Sterris, Committee Researcher;
- 4.1.14 Ms A Zindlani, the Committee Assistant; and
- 4.1.15 Ms N Fakier, Executive Secretary.

4.2 Stakeholders



The second hearing was also attended by the following stakeholders:

- 4.2.1 Councillor G Wolmarans, Executive Mayor, Knysna Local Municipality;
- 4.2.2 Councillor E Edge, Deputy Mayor, Knysna Local Municipality;
- 4.2.3 Mr G Easton, Municipal Manager, Knysna Local Municipality;
- 4.2.4 Ms M Paulsen, Legal Services Manager, Knysna Local Municipality; and
- 4.2.5 Mr F Bezuidenhout, Communications Manager, Knysna Local Municipality.

4.3 **Submissions by Knysna Local Municipality**

The submissions on behalf of Knysna Local Municipality (Municipality) were led by Mr G Easton (Mr Easton), the Municipal Manager of the Municipality and later supplemented by Councillor G Wolmarans, the Executive Mayor of the Municipality.

4.3.1 **Submissions by Mr G Easton**

In his submissions Mr Easton, specifically responded to 3 of the allegations levelled against by the Municipality in the petition submitted to the NCOP by Mr M Hampton (Mr Hampton).

4.3.1.1 **The Alleged Funding of Knysna Tourism with Tax Payers' Monies**

In his submissions, Mr Easton, submitted that KT is a section 21 company and not a municipal entity. He further stated that for this reason KT is not governed by the Municipal Council. Mr Easton also submitted that KT receives an annual grant from Municipality for the provision of tourism services and skills to the Municipality in terms of a Service Level Agreement.

Further according to Mr Easton, the Municipality took the decision to enter into the Service Level Agreement (Agreement) with KT not only because tourism is the Municipality's largest income



generator but also due to the fact that the Municipality lacked the necessary capacity and expertise in its skills base to carry out the services. He further noted that the conditions of the grant are clearly set out in the Agreement. He added that the grant to KT is presently set at R4 million per year but during the 2010 World Cup this figure went up to R6 million as the Municipality played host to some of the World Cup matches. He also noted that for financial reporting purposes, KT is shown, discussed and accounted for separately from the Municipality.

Mr Easton further informed the Committee that the Municipality gives grants to only two entities. The Municipality gives the first grant to KT and the second grant is given to the rate payers association of Leisure Isle Island for it to maintain the Municipality's portion of the Island. Also according to Mr Easton, KT uses the grant as part of its cash flow and to fund its normal day to day activities and precisely in the same manner as a municipality would use its equitable share.

In his submissions to the Committee, Mr Easton also informed the Committee that Mr Hampton had previously been a beneficiary of KT as he had been contracted to do some work for KT and during this period Mr Hampton had no issues or complaints against KT or the Municipality. Also according to Mr Easton, KT terminated its contract with Mr Hampton because he was not accredited to carry out the training that he was contracted to do.

In concluding his submissions, Mr Easton submitted that the Office of the Auditor General and other financial authorities have never queried payment of the grant to KT. He further submitted that the Municipality is audited by its own auditors as well as the Office of the Auditor General and has received 3 consecutive clean audits for the preceding financial years.

4.3.1.2 The Alleged Illegal Awarding of the ISDF Tender to Knysna Creative Heads



In responding to the allegation of the illegal awarding of the Integrated Strategic Development Framework (ISDF) tender by the Municipality, Mr Easton submitted that the ISDF carves out a 30-year horizon in relation to the growth and development of the Municipality. He further informed the Committee that in 2013, the Municipality awarded the tender for the development of the ISDF of the Municipality to Knysna Creative Heads (KCH). He further informed the Committee that the Office of the Auditor General had found nothing untoward or wanting in relation to the awarding of the tender to KCH by the Municipality. He also pointed out that the Municipality had noted the objections lodged in relation to the awarding of the tender and proceeded to appoint a lawyer to deal with the objections including those made by Ms Campbell. As such, according to Mr Easton, all the objections lodged, in this regard, had been dealt with by the Municipality. He added that the Public Protector had also responded to the letter from Ms Campbell in relation to the awarding of the ISDF tender. Mr Easton further assured the Committee that, notwithstanding this, all representations made in relation to the ISDF will be taken into consideration before a final draft of the ISDF is approved and adopted by the Municipality. In his submissions, he also observed that the allegation that Mr Mulder was conflicted is incorrect because the Municipal Council ultimately takes the decisions on all aspects of the ISDF.

In concluding his submissions in this respect, Mr Easton observed that the draft ISDF presented to the Municipal Council by KCH showed that the Municipality received value for its money in awarding the tender to KCH. He further submitted that if the Municipality were to re-advertise the ISDF tender, it will incur additional costs amounting to R5 million.

4.3.1.3 The Alleged Unconstitutional Blocking of Mr Hampton's Communication

In his submissions in relation to the alleged unconstitutional blocking of Mr Hampton's communication, Mr Easton informed the Committee that because Mr Hampton has numerous email accounts, he has been able to bombard the Municipality with immeasurable requests for information. He added that the sheer volume of the requests has been overwhelming as Mr Hampton



sends emails to officials of the Municipality right across the board, irrespective of what they are employed to do at the Municipality.

He further submitted that after his appointment as Municipal Manager he had directed that all the blocks on Mr Hampton's communication be removed however since the unblocking, Mr Hampton has continued to bombard the Municipality with requests for different kinds of information and also demands immediate responses to his requests for information yet he is well aware of the Municipality's complaints system in place. Mr Easton further stated that the content of some of Mr Hampton's communications were derogatory and insulting in nature. He also informed the Committee that Mr Hampton had also, at some stage, posted offensive, derogatory and racist cartoons on his website in relation to the Municipality and its officials.

4.3.2 Submissions by Councillor G Wolmarans

In her brief submissions to the Committee, Councillor G Wolmarans (Cllr Wolmarans), the Executive Mayor of the Municipality, apologised to the Committee for not honouring the initial invitation from the Committee, for the Municipality, to appear before it and make submissions in relation to the petition. Cllr Wolmarans further apologised to the Committee for making a statement on behalf of the Municipality that cast aspersions on the authority and credibility of the Committee to have a hearing on the petition. She further undertook, at the request of the Committee, to publish a statement retracting the first statement and vindicating the Committee in this regard. Also in her submissions to the Committee, Cllr Wolmarans, informed the Committee that prior to Mr Easton's appointment as Municipal Manager, Mr Easton had served as the CFO of the Municipality and added that, during his tenure as CFO of the Municipality, Mr Easton had received 2 clean audits and achieved his 3rd clean audit after he was appointed as the Municipal Manager of the Municipality.

Cllr Wolmarans also informed the Committee that Mr Easton had received the highest score during the interview process and confirmed that he holds a Bachelor of Arts degree from the University of Glasgow and his qualification in this regard had been verified by an accredited agency.



5. **THIRD HEARING ON THE LOVE KNYSNA PETITION**

5.1 **Committee Members and Officials**

The following Committee Members were present at the third hearing on the petition:

- 5.1.1 Hon M T Mhlanga, ANC, Mpumalanga;
- 5.1.2 Hon D M Stock, ANC, Northern Cape;
- 5.1.3 Hon J M Mthethwa, ANC, Kwa-Zulu Natal;
- 5.1.4 Hon T Wana, ANC, Eastern Cape;
- 5.1.5 Hon D L Ximbi, ANC, Western Cape;
- 5.1.6 Hon M D Monakedi, ANC, Limpopo;
- 5.1.7 Hon B Manopole, ANC, Northern Cape; and
- 5.1.8 Hon B Engelbrecht, DA, Gauteng;

The Committee Members present at the hearing on the petition, were supported by the following Committee officials:

- 5.1.9 Mr N Mkhize, Committee Secretary;
- 5.1.10 Dr M Gondwe, Committee Content Advisor;
- 5.1.11 Adv. T Sterris, Committee Researcher;
- 5.1.12 Ms C Maledu, Committee Assistant;
- 5.1.13 Ms N Fakier, Executive Secretary to the Chairperson of the Committee; and
- 5.1.14 Mr T Gubula, Committee Communications Officer.

5.2 **Stakeholders**

The hearing on the petition was attended by the following stakeholders:



5.2.1 Mr M Hampton, Petitioner;

5.2.2 Ms S Campbell, Petitioner's Witness;

5.2.3 Adv GP Landman (Adv Landman), Regional Manager for the George Office, Office of the Public Protector;

5.2.4 Adv SD Griessel (Adv Griessel), Provincial Representative for the Western Cape, Office of the Public Protector.

5.3 Submissions by the Petitioner

Mr Hampton began his submissions by informing the Committee that the new evidence and information, he submitted to the Committee, is based on the developments that have taken place, at the Municipality, since he last appeared before the Committee on 10 February 2016. (See the attached Updated Summary, dated 7 April 2017, by Mr Hampton, attached as Annexure A hereto) He further submitted that the new evidence and information will also address and refute the lies told by the Municipality when it made oral submissions, on the petition, to the Committee on 16 March 2016.

Also in his submissions, Mr Hampton took the Committee through his detailed written submissions, which he indicated he had also shared with the Office of the Public Protector (OPP) and the Municipality.

5.3.1 Corruption and Maladministration of Knysna Tourism

With regards to the alleged Corruption and Maladministration of Knysna Tourism (KT), Mr Hampton submitted KT only existed because of a Service Level Agreement (SLA) with the Municipality which had paid between R4-million to R6-million a year of taxpayers' money to KT annually in the form of a grant-in-aid. He also informed the Committee that KT ran into debt for four consecutive years and was bailed out each time by this grant-in-aid. Mr Hampton further informed the Committee that the grant-in-aid was never approved by any Municipal committee and as such it was misused with no one ever being held accountable. Mr Hampton also



submitted that he referred the complaint, in this regard, to the OPP and his complaint was investigated by Adv Bruce Wessels (an investigator with the OPP) however the complaint was not adequately investigated despite there being reasonable cause to do so.

5.3.2 The ISDF Tender (initial tender for 30-year plan for Knysna)

Mr Hampton submitted that the ISDF tender was awarded to Knysna Creative Heads (KCH), a consortium headed by Mr Chris Mulder (Mr Mulder), a property developer with the most questionable conflict of interest. He also submitted that despite being awarded the tender, the consortium had only come second in the bidding process despite having an unfair advantage in the tender advertisement. Mr Hampton further informed the Committee that it was only through rigorous activism and interventions with the aid of Ms Campbell that an investigation into the awarding of the ISDF tender was launched by MEC Anton Bredell. And MEC Bredell later noted the irregularities in the issuance of the tender but nonetheless allowed the tender to continue and his Department never handed the report into the investigation to the Municipal Manager.

In his submissions, Mr Hampton also submitted, that Ms Campbell received the full report on the investigation and it showed that MEC Bredell acted against his own Department's findings by allowing the tender to continue. He added that the report does not however sufficiently address the conflict of interest that is raised in the awarding of the tender to KCH. He explained that this conflict of interest lay in, *inter alia*, the fact that the Manager for Economic Development, Ilse van Schalkwyk used to work for one of the companies in the consortium (that was awarded the tender) yet she was allowed to chair the Bid Evaluation Committee; and the Director Planning and Development, Mr Mike Maughan-Brown (Mr Maughan-Brown) and Mr Mulder, had in 2005, attempted to change the urban edge of Knysna. At that stage, Mr Maughan-Brown, was also a property developer. Mr Hampton also pointed out that no one on the Bid Evaluation Committee had signed a declaration of interest before assessing the bid. He added that despite the report into the investigation not having sufficiently addressed the cases of conflict of interest, its findings were still significant.

In concluding his submissions, in this regard, Mr Hampton submitted that due to the administrative corruption taking place in the whole of Knysna there has been no earnest effort to confront it and as



such the cases of conflict of interest have never been brought to the attention of the Knysna Municipal Council or the OPP.

He further submitted that there had been other tender procurement irregularities where the winner was not the granted the tender or where tender documents went missing and nobody has ever been held accountable in this regard. Mr Hampton also made mention of a restaurant located at the Heads which despite owing R1 million in electricity debt, received prepaid electricity from the Municipality, in December 2016, so that it can continue doing business.

He further made mention of the Knysna Vehicle Testing Centre, which had been closed due to ongoing investigations which cost the public R1,5 million in legal fees and since he last appeared before the Committee this amount had dramatically increased to R3, with no one being held accountable. Also according to Mr Hampton as a result of the numerous tender procurement irregularities, the Municipality incurred R8 million in losses and these losses resulted in disciplinary proceedings being instituted against Mr Easton. And despite the numerous complaints lodged against Mr Easton, by Ms Campbell, was allowed to resign and paid 2 months of his salary (which is about R250 000) as well as an old bonus. Mr Hampton also informed the Committee that Mr Easton cannot be the only person implicated in the corruption and rot taking place within the Municipality and others should also have been charged.

5.3.3 The Illegal Municipal Manager and Financial Irregularities

Mr Hampton submitted that the appointment of Mr Easton as Municipal Manager was illegal as the Municipality had failed to verify his qualifications and Mr Easton never applied for the position in the first place. Mr Hampton added that Mr Easton's previous appointment as Chief Financial Officer of the Municipality was also illegal as Mr Easton does not hold a degree in accountancy. He also related how at a Council meeting, then Mayor Georlene Wolmarans (Mayor Wolmarans), withdrew her motion to appoint Mr Easton as Municipal Manager until the full ISDF tender report was received from MEC Bredell. However, at the next Council meeting, she appointed him despite not receiving the report and Mr Easton went onto to earn more income than the prescribed limit.



Mr Hampton further informed the Committee that the charges that resulted in a disciplinary being instituted against Mr Easton included the awarding of the ISDF tender and the installation of a local premium used in the tender evaluation process. The latter allowed local companies to get tenders they should not get and to circumvent Broad Based Black Economic Empowerment (BBBEE) requirements and this resulted in the Municipality incurring R8 million in losses. According to Mr Hampton, Mr Easton was also charged with procuring two personal loans amounting to R19 million from ABSA Bank; conducting an inappropriate relationship with an employee in the department; and having racial bias against Indians, specifically the budget manager, Ms Avita Sunkhar.

5.3.4 Unconstitutional Blocking of Communication

Regarding the unconstitutional blocking of his communication, Mr Hampton submitted that he reached out to over 60 people, ranging from Municipal Councillors to the Premier of the Western Cape (Premier), in an attempt to notify them of the unconstitutional blocking of communication but none of them responded. Mr Hampton further submitted that, rather than lodging an investigation, the Premier wrote articles in newspapers attempting to discredit him to the public and suppress his complaints. There were also subsequent propaganda and character assassination campaigns in the press others in the media, where he was depicted as a child abuser, a sociopath and the town's economic saboteur in cohort with a third force. In this respect, Mr Hampton further informed the Committee that certain politicians affiliated with the Democratic Alliance (DA) had ought to discredit him through the local newspapers such as the Knysna-Plett Herald.

He also stated that despite lodging numerous complaints of the corruption taking place within the Municipality with the Eden District Corruption Hotline, which is managed by KPMG, the Hotline has failed, in the last eight months, to follow up on any of the complaints he made. Mr Hampton informed the Committee that he was banned from all the Municipality's online platforms, presumably on the authority of the Municipality's Director of Communications.

In closing his submissions, in this regard, Mr Hampton submitted that he has referred his complaints to the OPP but no one from the OPP has contacted him on the progress made in investigating them or on the way forward. He further added that despite all the corruption complaints he had made, the Municipality has not launched any investigation into the complaints but has instead, resorted to



suppressing and discrediting him in the media and turned some of the local residents and business community members against him.

5.3.5 Relief Sought

In concluding his submissions, Mr Hampton submitted that he required the assistance of the Committee in securing the following relief:

5.3.5.1 The conducting of a forensic audit as part of the administration;

5.3.5.2 The conducting of a forensic audit into all the complaints he has made, particularly those complaints he has made to Premier Zille and Hon Maimane;

5.3.5.3 Requesting the Auditor-General to provide reasons into how and why the Municipality has continuously received a clean audit despite some of the serious findings against the Municipality;

5.3.5.4 Requesting the South Africa Policy Services to provide reasons as to why it failed to follow up on some of the cases involving him;

5.3.5.5 Requesting the Hawks based in George to provide reasons into their failure to investigate his complaints against the illegal funding of Knysna Tourism and the illegal awarding of the ISDF tender;

5.3.5.6 The conducting of an audit of the KPMG-run Eden District Corruption Hotline;

5.3.5.7 Making the Office of the Public Protector aware of the complaints he has levelled against the Municipality and to also contact him and commit to action;

5.3.5.8 Requesting the South Africa Local Government Association (SALGA) to also be involved in any investigations into the Municipality; and

5.3.5.9 Requesting the National Manager of Legal Aid South Africa to contact him in respect of the various court cases he is party to.

5.4 Submissions by the Petitioner's Witness



In her brief submissions to the Committee, Ms Campbell, the petitioner's witness, made submissions on two issues – namely the illegal awarding of the ISDF tender to Knysna Creative Heads by the Municipality and the illegal appointment of Mr Dawie Adonis (Mr Adonis) as the Director of Community Services at the Municipality.

5.4.1 Illegal Awarding of the ISDF Tender to Knysna Creative Heads by the Municipality

Ms Campbell began her submissions by informing the Committee that the Municipality had spent more than of R2, 7 million on the tender and the contractors are yet to finish the work or deliver any product. She added that the contractor's competence fell short of the requirements in terms of the Preferential Procurement Regulations and as such it should have never been awarded the tender in the first place. Further according to Ms Campbell, the Municipality is currently budgeting to do the work that should have been finalised by the contractor.

Ms Campbell further submitted that in 2016, Mr Easton, the Municipal Manager and Mr Kruger, the Supply Chain Manager had explained, to the Municipality, that they had appointed a consultant to do the work was because there was no Bid Specification Committee, in place, at the time. This explanation was a direct contradiction to the explanations given to MEC Bredell, with the true position being that a Bid Specification Committee did exist at the time. She added that the process of awarding the ISDF tender was done outside the relevant Tender Procurement Regulations and deliberately circumvented BBBEE regulations as well. The issue was not picked by the Auditor General of South Africa (AGSA) but AGSA later included it as a comment in the Municipality's annual financial Statements.

In her submissions, Ms Campbell also confirmed that Mr Easton was charged and disciplined at her instance. She also submitted that she first complained against his appointment as Municipal Manager in 2013 and the Municipality initially ignored her complaints and only took action before the local government elections and after she threatened to take the matter to the press.

5.4.2 Illegal Appointment of Mr Adonis as the Director of Community Services



In her submissions, on the alleged illegal appointment of Mr Adonis, as the Director of Community Services, Ms Campbell submitted Mr Adonis was appointed to this position, on a permanent basis, by the Municipality in 2013 despite advertising the position as a 5-year contract position. She also submitted that Mr Adonis was given a permanent position even though he did not possess the necessary qualifications and this made his appointment illegal in terms of the regulations of the Municipal Finance Management Act (Act 56 of 2003), as applicants for the position had to have the relevant qualifications under the Municipal Systems Act (Act 32 of 2000). Ms Campbell also informed the Committee that despite the irregularities in his appointment, MEC Bredell had done nothing, since July 2013, to address this illegal appointment. She added that she had written to MEC Bredell to formally inform him of the illegal appointment of Mr Adonis and the response she is given, every time she follows up on her complaint, is that MEC Bredell is still engaging the Municipality on the issue. She reminded the Committee that MEC Bredell was meant to have taken action within the statutory period of 14 days however this period has long expired.

5.5 Submission by the Provincial Office of the Public Protector Western Cape

Submissions on behalf of the Provincial Office of the Public Protector (OPP), Western Cape were made by Adv Griessel and Adv Landman. Adv Griessel began her submissions by informing the Committee that she had never met Mr Hampton and had only become aware of his complaints after their Public Relations Unit approached her and indicated that the media has requested a progress report on the complaints Mr Hampton referred to the OPP. Adv Griessel stated that thereafter she went through their records with Adv Landman and established that there had been an investigation into some of his complaints and the investigation had been closed and finalised. She also informed the Committee that they received another complaint from Mr Hampton in 2014 and it was closed and finalised. She added that the OPP later invited him to apply for the reopening of the complaint if he was dissatisfied with the manner in which the complaint was finalised.



Adv Landman concluded the submissions by the OPP by informing the Committee that if Mr Hampton is not satisfied with the investigation he could approach the Head of the Western Cape OPP and apply for the reopening of his complaints.

6. OBSERVATIONS AND FINDINGS

The Committee made the following observations and findings in relation to the submissions made during the hearings on the petition:

- 6.1 Aspects of the new information or evidence that Mr Hampton submitted to the Committee during the third hearing on the petition built the submissions he made to the Committee during the first hearing on the petition.
- 6.2 The Municipality suspended and later charged Mr Easton, the former Municipal Manager of the Municipality, at the instance of Ms Campbell's complaints against his appointment as Municipal Manager.
- 6.3 Numerous charges were drawn up against Mr Easton, by the Municipality and the charges included, amongst others, the failure to ensure the implementation of recommendations, from the Auditor General South Africa (in relation to awarding of tenders or contracts to local suppliers) and breaching supply chain management and procurement and procedures in allowing the continuous use of the local premium preference policy.
- 6.4 Mr Easton resigned, from his position as Municipal Manager, before his disciplinary hearing could be concluded.



- 6.5 The Provincial Department of Local Government has investigated some of the complaints in the petition and has concluded its investigation on most of the complaints. It however not finalised the complaint on the awarding of the ISDF tender.
- 6.6 The Provincial Office of the Public Protector is privy to two of the issues raised in the petition, namely the alleged illegal funding of Knysna Tourism with tax payer's monies and alleged illegal awarding of the ISDF tender.
- 6.7 The Provincial Office of the Public Protector has encouraged the petitioner to apply for the reopening of his complaints if he is not satisfied with the manner in which these complaints were initially investigated by the Office of the Public Protector.
- 6.8 Knysna Tourism is audited by the Office of the Auditor General, its own independent auditors as well as the auditors of the Municipality.
- 6.9 A number of the individuals that the petitioner makes allegations against in the petition, have brought civil legal actions against him and are suing him for harassment and *crimen injuria*.

7. **RECOMMENDATIONS**

Following extensive deliberations on the submissions made during the hearings on the petition, the Committee recommends as follows:

- 7.1 That the National Office of the Public Protector investigate *all* the issues raised in the petition.



- 7.2 That the National Office of the Public Protector further investigate the reluctance on the part of its Provincial Office to investigate the complaints raised in the petition.
- 7.3 That the National Office of the Public Protector report to the Committee on the progress it has made in investigating the issues raised in the petition, within 60 days of the tabling of this report in the House.

Report to be tabled for consideration.