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## Minutes of Annual General Meeting

Held on 20<sup>th</sup> October 2016 at RocPoint House, 15 Timeball Boulevard, Point Waterfront

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### Present

N Steyn	(NS)	-	DPWMA (Acting Chairman)
G Jacobson	(GJ)	-	DPWMA
E Pillay	(EP)	-	DPWMA
N de Bruin	(NdB)	-	DPWMA
B Soban	(BS)	-	DPWMA
A Ndimba	(AN)	-	eThekweni Municipality
C Jorgensen	(CJ)	-	Point Bastille
A Rowe	(AR)	-	Point Bastille
J Dahl	(JD)	-	Quayside
V o'Connell	(VoC)	-	The Quays
C Hall	(CH)	-	PWC
A Burke	(AB)	-	Marine Point/Dockpoint
G Laupsa	(GL)	-	Dockpoint
E Loonat	(EL)	-	Point Bay
S Khwela	(SK)	-	Ithala Trade Centre
N Mnganga	(NM)	-	Stevedore Point
M Moodley	(MM)	-	Lion Match
A Heeralal	(AH)	-	Lion Match
G Levy	(GL)	-	Eastpoint
C Deetlifs	(CD)	-	Marine Point (proxy P Limbouris)
C Murphy	(CM)	-	The Sails (proxy D Mashile and Lexprop)
MF Jamalooden	(MFJ)	-	The Sails
F Pienaar	(FP)	-	Quayside
L Boniface	(LB)	-	Harbour View Heights
MAM Azmi	(MAMA)	-	DPDC

### Apologies

K Matthias	(KM)	-	DPWMA
H Gabela	(HG)	-	Tsebo FS
P Pillay	(PP)	-	Tsebo FS
S Chetty	(SC)	-	Point Bay
V Ramdass	(VR)	-	The Sails
C Sher	(CS)	-	Eastpoint
A Uys	(AU)	-	The Quays
V Maharaj	(VM)	-	The Quays
V Govender	(VG)	-	The Sails
W Simeoni	(WS)	-	The Sails
W Klaasen	(WK)	-	The Sails
F Grobler	(FG)	-	The Quayside

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Item	Description
1.	<p><b>Welcome</b></p> <p>The Acting Chairman welcomed all those present and declared the meeting duly convened in terms of the DPWMA Memorandum of Incorporation. The Acting Chairman introduced all Directors, DPDC Representatives and DPWMA Representatives.</p>
2.	<p><b>Quorum</b></p> <p>After establishing that a quorum was present, the meeting proceeded.</p>
3.	<p><b>Changes to the Agenda</b></p> <p>NS asked for an item to be added – Minutes of the previous meeting.</p>
4.	<p><b>Minutes of the previous meeting and matters arising</b></p> <p>Minutes of the previous meeting were adopted as correct. GJ accepted and seconded by AR and signed off by NS.</p>
5.	<p><b>Chairman's Report</b></p> <p>The Acting Chairman tabled the report.</p>
6.	<p><b>Confirmation of Directors</b></p> <p>VoC asked who the Chairman of the DPWMA Board was and NS answered Keith Matthias. VoC said that KM was grievously ill and NS said that he was still a director on the DPWMA Board. NS named all the Directors.</p>

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### 7. General

#### Security

VoC said that there was a home invasion: a truck and ski-boat was stolen. No footage was obtained for the ski boat that was stolen.

#### Umongi

VoC queried Umongi and whether Umongi was in a partnership with Vulindlela. NdB and BS said no, but VoC said that, on the internet, Vulindlela was shown as a shareholder of Impilo. VoC asked how Umongi obtained this contract and NS said that every contract goes out to tender.

NS further said that he had an opportunity to adjudicate a tender and it gave all the shareholding information. VoC produced a page from the internet showing Umongi shareholding. BS explained that the page referred to Albert Luthuli Hospital.

VoC said that a change of the facilities company is needed due to shareholding.

#### General state of the Precinct

VoC said that the general state of the Precinct is not as it should be. AB confirmed this. VoC said the deal with the Developer was that night clubs would not be allowed. BS agreed and said that was the reason that Sugar Reef was issued notice to vacate through the Body Corporate. VoC raised his concerns about Sugar Reef. BS asked whether anyone from the Sails Body Corporate was present. BS asked MFJ to answer VoC. VoC said that the liquor license expired and a further application was produced to change the name of the company. VoC said DPWMA must go to court and get an interdict. MFJ said that the Sails Body Corporate needed assistance to close the club down. MFJ further said that the owners of the club will be called in as the club was trading illegally. MFJ said that he checked the license and the license was invalid since it still ran on the previous owner's name. Much deliberation had gone into Sugar Reef trading illegally and the issue with the license. MFJ said that Sugar Reef renewed the license, using Fetish Lounge. VoC said that this was an invalid license and checked the database of liquor licenses and found that Sugar Reef was not on it. VoC said that on Saturday night there was a tavern fight with screaming, kicking and shouting. BS said that the problem was with holiday letting. Holiday makers are not screened and the people that were allowed to stay at The Sails were usually cause inconveniences.

MFJ said that there were two problems with the Sails; one was the club and the other holiday letting. MFJ further said that their AGM was to be held the following week and they have procedures in place to address these issues.

### 8. Appointment of Directors

VoC said he was asked for representations on the DPWMA Board. VoC said he got a call from NS mentioned that NS was remaining on the Board for another year. A senior businessman was proposed to join the Board. VoC further said that the MOI was approved in 2014, whereby the members and people paying levies cannot nominate members onto the Board. VoC wanted to know whether DPDC would have full control of the nomination on the DPWMA Board. BS commented that the Developer does not take anybody's money but instead levies are paid to DPWMA. The Developer does not control DPWMA. Point Precinct Trust is 100% owned by the Municipality and DPWMA manage certain areas for the Municipality.

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Public areas are supposed to be maintained by the Municipality but instead were being maintained by DPWMA which was formed by the Municipality. BS reiterated that DPDC was not DPWMA and was a different entity with regards to auditors, banking accounts, etc.

VoC wanted to know the intention of DPWMA Board by not wanting to include other parties onto the DPWMA Board. NS said that he did not write the MOI and that this was written and adopted a long time ago. NS said he was asked to stay on and he agreed but still wanted to step down.

AB said that it was always the case that one seat was available for a resident representative and he sat on the Board for 5 years. NS took over from AB.

AH asked if subcommittees could be formed and whereby issues could be handled at this forum rather than the AGM. Also to have subcommittees meet on a more regular basis to deal with the complaints and to give solutions to the complaints.

NS said he liked the idea of subcommittees.

AB queried why the Association of Articles changed. NdB said it was changed from a Section 21 company to a non-profit organization as required by SARS.

BS suggested that there were a number of body corporates and one of their members to be represented to the Board. BS further suggested that a one year rotation should take place, with the result that every body corporate would be involved in the management.

VoC said that there was place for 3 extra directors. NS said that there was place for only 2 and the other one was the Watersports Club. NS said that until KM resigned there was only place for 1 director. VoC asked whether this could be increased at this meeting and the answer was no. NS referred VoC to item 76.1 of the MOI. VoC asked whether one director could be appointed at this AGM. BS said he could not make the decision as this must be approved by the DPDC Board.

Night clubs - NS said that the management company does not have the authority to throw anybody out with regards to the night clubs. It was the responsibility of the body corporate.

Drowning in the canal – VoC thought it was another nightclub fight as he heard the victim screaming. VoC said that CM could not get out of the canal because the bolts were rotten. VoC asked why these bolts were not maintained and why there are not many lifesaving devices. Steps were later added. NdB said all ladders have been replaced.

BS said that the City contributed 70% for the area maintenance and levy payers contributed 30% for top up services.

AB said that the biggest problem was service delivery. Visible policing was required as there were too many incidents. BS said that security should be increased. BS said there were challenges that needed to be addressed. BS said that more cameras needed to be installed.

NS said that the management company was instructed to operate within the budget of the levies raised

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and the City's contribution had to go into a Trust account. NS said he was approached by NdB to start utilise the money (GIA) that was in the bank for additional work. NS suggested that NdB put down on paper what needed to be done and this would be taken to the Board.

NS said that NdB was the point of contact and not to wait for the AGM to raise complaints.

AR said, on many occasions, he had to phone the Control Room about parking and street parties at Point Bastille.

VoC spoke about the building next to Ciao Bella which was full of rats and VoC wanted to know why the City was not approached about this building. NS explained that the City was approached on numerous occasions. FP spoke about Mahatma Gandhi Road not being opened and BS reiterated that it was the City's project. BS took offence that the Developer was being blamed for everything.

### 9. Annual Financial Statements

NS said the AFS was delayed by a month due to two outstanding issues. One was the outstanding GIA; the amount had been finalised and the invoice was with the City. Unless the City committed to the payment then only the auditors will enter this into the balance sheet as a provision for doubtful debt. The second issue was a long outstanding tax issue which was out of DPWMA's hands. The tax issue was pursued with the Receiver and still had not been resolved. Without these two items the audited financial statements would not be signed off or else the auditors would give a qualified report. NS said that as a public enterprise a qualified report was not acceptable. NS requested for the draft AFS to be included onto the website for everyone to peruse.

VoC asked whether the financial year end was the 31<sup>st</sup> of December and NS answered yes. VoC said that this would cause a serious problem as the Board was supposed to finalise the accounts 6 months from the financial year end. NS stressed that the two queries in question was not in DPWMA's control.

AH said the DPWMA needed to get into compliance with the AFS as quick as possible and reschedule an AGM to sign off the AFS. AH said that there was a qualification beyond DPWMA's control. AH also said that this was a very specific qualification.

NdB requested for 25% per year of the reserve (GIA) to be utilised for additional cameras, speed bumps, lighting, security patrolling, etc. NdB further said that from the 1<sup>st</sup> of December the security complement would be increased. AR asked NdB whether the cameras are working 100% and whether they are being monitored. AR said the response was not showing that the cameras were working. NdB answered yes and he said that most times the cameras are patrolling and are not static. AR said that there are incidents happening in the Precinct and was not being addressed by security. NdB mentioned that for the boat that was stolen, NdB personally went to the Control Room and the cameras did not show the boat during the period that was reported.

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### Cameras

NdB said that there were issues and complaints regarding security that have been addressed with the service provider.

NS said that this meeting would be adjourned and a special meeting to approve just the financials would be held.

AH suggested that if the cameras needed to be fixed, it should be fixed. AH also suggested that the cameras needed to be monitored and instead of roaming, cameras should rather be static in specific areas.

GL asked who owned the security hardware. NS answered that DPWMA owned it and Enforce operated and maintain the system. GL asked about Enforce's term of contract and NS said that Enforce had just won the contract. GL said in those days there was visible policing of Enforce vehicles and this was not done recently. NdB said there are monthly minuted meetings and ad hoc meetings as and when required with all service providers.

NdB also said that for the past three years DPWMA replaced all the cameras within the Precinct with high resolution, day night cameras. NdB said two people monitored 27 cameras daily and nightly.

GL again queried about the missing ski boat as he felt that the camera could have picked this up. NdB said he personally checked the cameras and could not see anything. The boat was stolen from the basement of the Quays and NdB said maybe the time that it was stolen was relayed wrongly to security.

### **10. Election of Directors**

VoC said he wanted to make a formal proposal of Mr Frik Grobelaar as a Director. Mr Grobelaar was a majority owner of Dewfresh, a very large dairy company that had been in business since 1973. VoC said that there was nothing that prevented the AGM from appointing Mr Grobelaar. NS pointed out that there was nothing in the MOI about appointing directors and there was no reason why Mr Grobelaar could not be on the Board, but had to be approved by the DPDC Board. NS read the MOI item 76 referred to the Election of Directors – NS further said the process was that BS presents to the DPDC Board and then the appointment could take place. BS said that there should be three nominations that could be presented to the DPDC Board where it needs to be endorsed by the different body corporates that they are accepting the 3 nominations. VoC wanted to know when the DPDC Board meeting was to be held. BS said sometime in November.

This AGM was adjourned to the end of November in order to approve the AFS.

VoC complimented NdB, EP and the team for their hard work.

The date of the next meeting would be relayed to all members.

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### Continuation of AGM held on 20<sup>th</sup> October 2016 – 16<sup>th</sup> February 2017

#### Present

K Matthias	(KM)	-	DPWMA/DPDC (Chairman)
N Steyn	(NS)	-	DPWMA
G Jacobson	(GJ)	-	DPWMA
E Pillay	(EP)	-	DPWMA
N de Bruin	(NdB)	-	DPWMA
A Mitha	(AM)	-	DPWMA
H Gabela	(HG)	-	Tsebo FS
N Mdlalose	(NM)	-	DPWMA
C Jorgensen	(CJ)	-	Point Bastille
A Uys	(AU)	-	The Quays
V o'Connell	(VoC)	-	The Quays
C Hall	(CH)	-	PWC
S Khwela	(SK)	-	Ithala Trade Centre
T Badenhorst	(TB)	-	Ithala Trade Centre
C Deetlifs	(CD)	-	Marine Point (proxy P Limbouris)
G Westbrook	(GW)	-	The Sails
I Donjeany	(ID)	-	Point Bastille
G Brockett	(GB)	-	Quayside
A Schulze	(AS)	-	Quayside
W Frey	(WF)	-	Quayside

#### Apologies

B Soban	(BS)	-	DPWMA
F Grobelaar	(FG)	-	The Quays

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## Continuation of AGM held on 20<sup>th</sup> October 2016 – 16<sup>th</sup> February 2017

Item	Description
1.	<p data-bbox="228 438 345 468"><b>Welcome</b></p> <p data-bbox="228 510 1507 611">The Chairman welcomed all those present and also said that the AGM was well attended. KM stipulated that this meeting was a continuation of the meeting held on 20<sup>th</sup> October 2016 and was to deal with three outstanding items. Apologies were noted.</p> <p data-bbox="228 688 574 718"><b>Annual Financial Statements</b></p> <p data-bbox="228 760 1507 896">VoC asked about the qualifying of the AFS and NdB explained. NdB said there were two issues, the first one being the outstanding GIA. NS said the auditors did not want to complete the audit without the two outstanding items. The second item was tax information from the Receiver. DPWMA insisted that the AFS was needed and the only way that the AFS could be issued was to rectify the problem.</p> <p data-bbox="228 938 1507 1108">NdB explained the GIA, whereby the City paid 70% of DPWMA's actual spent on maintenance back to DPWMA. The City did not pay the GIA for the 2014/2015 years. NdB said there were three options – one was to write it off completely; or allow for doubtful debts; or alternatively to leave it, then there would be a qualification. Eventually it was agreed to provide for the GIA as doubtful debts for the two years. VoC wanted to know why the City did not pay the GIA.</p> <p data-bbox="228 1150 1507 1356">KM gave a history of the GIA and that after Mike Andrews's retirement, the problems started. DPWMA provided a service in the Point to cover what the City would normally provide. Over and above, it provided high quality additional quantum of services. KM further said the debt had to be kept live rather than write it off as it would have been a risk. Shortfalls are picked up by the Development Company. VoC wanted to know what amount was outstanding; NdB answered approximately R2.2m per year or R4.3m for the two years.</p> <p data-bbox="228 1398 1507 1535">NdB said he was in contact with Mike and Mike provided all the back up documentation. In October all the documents were submitted to the City's legal department. VoC asked whether DPWMA was hopeful to get the money. NdB said all the services were provided as the City did not maintain the Precinct. All the maintenance was done by DPWMA and therefore the money must be paid.</p> <p data-bbox="228 1577 1507 1644">NS said the City would not pay without a signed contract and the contract was submitted 3 years ago for signing. The contract was sitting in the City's legal department.</p> <p data-bbox="228 1686 1507 1787">KM said going forward; a report was required from DPWMA to DPDC raising the concerns drawn in terms of the outstanding payment. KM said that it needed to be raised in the correct political forum. VoC said prescription occurred 36 months from the time of the GIA was due.</p> <p data-bbox="228 1829 1507 1896">NdB met with the attorneys with regards to the outstanding GIA. The attorneys suggested they meet with the City's attorneys on a personal level instead of going into litigation. Further meetings did take place</p>

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between Afika (representing the City) BS and the attorneys. KM asked what the outcome of the October meeting and NdB answered that all parties would continue to meet to resolve with the GIA issue.

WF said that there was no signed agreement and DPDC to send a letter to the City to conclude this agreement with regards to the GIA.

AU queried why the audit fees doubled in 2015. AM said that was for additional services and AM said she would check and report after the meeting. NdB said that there were normally two fees one for the auditing and one for the preparation of the financials.

TB asked about the provision for doubtful debts and NS said that was for the GIA.

VoC asked whether the Developer had paid the levies and NdB answered yes. NdB said only One Point One Seven had outstanding levies and NdB confirmed that they would be handed over to DPWMA's attorneys.

WF thanked the team for the proper management of finances and maintenance.

KM mentioned the Contracts Register and it was revisited at the end of two years for each contract. This ensured that contractors are kept on their toes. There was a capital asset register and this was crucial with the life span of the items. Reserve was built up for capital expenditure for refurbishment or replacement.

VoC wanted to know if there was a representative from DPDC present and KM said he was nominated by DPDC.

The AFS was approved by NS and seconded by GJ and signed off by KM and NS.

### **2. Appointment of auditors**

NdB said the auditors were already appointed because DPWMA was running out of time. The audit was in progress at the present time. WF said the auditors should have been proposed rather than to say that the auditors had been appointed. NdB said he had to make the call and spoke to some of the directors and they agreed, because of time restraints. WF asked whether it was a conflict of the constitution as this should have been ratified by the members. NdB said that three quotes were obtained. KM clarified them as:

EY – R70 000; Ngubane & Co – R53 694 and Sizwe Ntsaluba Gobodo – R50 400 for the cost of the audit. Sizwe Ntsaluba Gobodo was approved as the auditors for 2016. KM mentioned that the selected auditors provided the most competitive quote. The appointment of auditors was sanctioned by the AGM.

### **3. Election of Directors**

KM asked NS to take the meeting through the document (MOI) marked A & B which was distributed to the members.

NS said that in 2008 the companies Act changed – Section 21 companies fell away and Non-Profit companies was implemented therefore a Memorandum of Incorporation had to be done. NS said he had

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taken the clauses pertaining to the Appointment of Directors from both the documents. NS explained these clauses. The only difference with the Memorandum of Incorporation was the appointment of a director from the Point Watersports Club.

VoC said the owners took objection that they pay levies and had no say of who was going to be on the Board. Three names were given for nomination as director. NS said the CV's have been submitted. VoC said he came prepared thinking that Frik Grobelaar (FG) would be nominated at this meeting. VoC said the Quays nominated FG as a director for the DPWMA board. NS said the 3 CV's would be handed to the DPDC Board for consideration. VoC said that the AGM was where directors should be appointed. KM went through the names of the nominations viz Walter Frey (Quayside), Frik Grobelaar (Quays), and Vinesh Ramdass (Sails). KM asked the meeting who they would recommend to DPDC. NS said that it was unfair since WF was present at the meeting and FG was not. WF said that DPDC should be allowed to make a choice and if the outcome was uncomfortable to some, then the meeting would like to understand how DPDC made this choice. WF suggested that the residents should have a property representative and appoint someone and bring it back to DPDC. WF further said that going forward, the nominations should be considered and not to delay representation. WF also suggested that a democratic elected person be chosen. NS asked WF whether he lives in the area and he confirmed; FG also lived in the area; VR did not live in the area. VoC said a subcommittee should be formed. NS agreed and the subcommittee should consist of the chairpersons of each building. NS said there was a direct line via the chairperson to the residents. KM and WF supported NS's proposal. KM further said that a committee was a great way of communication to the residents. Suggestion from NS that when the subcommittee was formed, NdB to attend the meetings.

WF asked what the cash flow implications for the residents are during the development. NS answered by saying the Developer was paying for all the costs. NdB explained how the verge deposit works. NdB further said that very few of the roads have been handed over to the Point Precinct Trust as they still belong to the Development Company. DPDC was still responsible for the maintenance of roads, etc until handed over to the Point Precinct Trust.

VoC asked if AU and WF could caucus for a few minutes to save time with the appointment of the Director to the DPWMA Board. KM and the members agreed.

AU said that the nomination was discussed and that the Quays were happy to withdraw the nomination of Frik Grobelaar and therefore there was only one nomination, Walter Frey. The members were happy with this and VoC removed Vinesh Ramdass, as he did not live in the area. WF said he would accept, subject to a representative body being put together. NS said that, if the subcommittee was formed and active, this would be the right forum to nominate the people. KM asked NdB to put WF's name for nomination to the DPDC Board.

#### 4. General

Development update – VoC asked about the development update; when it was going to happen and when the roads would open. VoC said he had an issue with the clubs particularly Sugar Reef. VoC asked that KM talk about the development, but KM answered that he could not, because he was not aware of the present situation.

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VoC asked whether these issues could be addressed to the DPDC or the City. KM answered the Developer, initially. CH addressed the meeting and said, according to his knowledge, DPDC would facilitate the agreement and drawing up the lease agreement between the City and DPDC. The land that was to be handed over was not the land underneath the Promenade as it included the entire beach up to Moyo's. The beach from North Pier to Moyo's was owned jointly by the City and DPDC. That lease would be placed and having been negotiated by PWC through DPDC with the City as there would be joint-ventured. When this was in place, then the land would be handed over. KM further said that the beach strip was owned by the Development company and the company was made up of the City and UEM Sunrise. The company itself would enter into the lease but, in handing over that strip over to the City and the City would inherit the lease.

VoC further asked when things were going to happen with the development and the schedule of happenings. NS suggested that BS provide a document with regards to the time lines of the development. KM asked NdB whether this information could be downloaded to DPWMA's website. NdB said that certain updates were done on the website. The Promenade was expected to commence towards the middle of this year but this was also not definite. Shopping centre works would commence at the end of the year but this was also not confirmed. WF asked if this could be put on the website and subject to change. NdB said he could only do this with DPDC's approval and NdB said he would request approval and update website accordingly when available. NdB said there were constant updates on the website with relevant information. NdB said that Mahatma Gandhi Road was 3 months behind schedule. This section would be completed by the end of November hopefully. Camperdown and Mahatma Gandhi along the harbour entrance are still on schedule. WF asked what the hold-ups were. NdB answered that the contractors experienced many unexpected delays and pipes had to be re-laid in order to get the sewer line in. NdB further said that there were lots of surprises such as foundations, etc. VoC said that there was lots of congestion during peak times. VoC asked whether four-way stops were considered. NdB said he would have to meet with ETA to resolve the congestion problem.

Sugar Reef Nightclub – VoC asked where DPWMA was standing and what was DPWMA doing about the nightclub. VoC further said that the nightclub goes on until 03:00 in the morning, with the result that the Precinct was going to go down. VoC approached the police and the police raided the wrong nightclub. VoC said their liquor license was not valid. VoC said that decisive and proper action needed to be taken against Sugar Reef by DPWMA and the City.

KM asked what the actions were with the investigations to date. KM said that this was private property and there was a body corporate and obviously they are tolerating it. KM further said that there were rules in place and that the building did not enforce these rules. GW from the Sails commented that he objected to the nightclub and he did not get answers from the body corporate. GW further said that he was talking on behalf of many owners from the Sails that this was unacceptable.

WF said that he had an opportunity whereby NdB explained how this area operates and everything was constructive. WF asked how the rules could be changed to incorporate policing and real rights. VoC said that penalties should be instituted against the club maybe R20000 per night and the owners would cry to pay this amount. VoC asked NdB to get the lawyers to look at the town planning schemes and to be amended as part of DPDC's deal. VoC said Cathy told him that nightclubs were prohibited according to the new schemes. NdB said it was legal to have a nightclub as it fell under mixed use section.

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NS said that this was reported to the relevant departments and nothing was done. NdB said he reported this to Metro Police, Health Department, SAPS and he said that nothing happened. Letters were also written to the Body Corporate

KM asked NdB to send all the information on the nightclub to him and he would look at possibly changing their rating category. WF said fines and penalties should be instituted against the owners of Sugar Reef. NS said that an interdict be obtained against Sugar Reef whereby they should provide their business and liquor license. Then only the interdict would be lifted. NS said that this was an illegal operation. NdB was instructed to take legal action against Sugar Reef. NS asked NdB to revise the fines/penalties schedule and it must be comprehensive. NdB was asked to bring the Rules of Conduct to the next DPWMA meeting and look at some gaps with regard to fines and penalties. From the City's side penalty rates would be changed as per KM.

KM said that he was taking early retirement from the Council due to ill health. KM said that this was his last meeting. KM thanked everybody who assisted and NS in particular for stepping in for KM. KM wished the Association well in the future.

VoC thanked KM and wished him well and also said that this was a very productive and pleasant meeting.

VoC, WF and AU thanked the DPWMA team for a job well done.

The meeting closed with no further business to be discussed.