



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY MEETING OF COUNCIL

Date	15 November 2022	
Time:	10:00	
Venue:	EP-CG KGOTLA (Auditorium - C- Block)	
Present	██████████	Acting Chairperson
	██████████	Councillor
	██████████	Councillor
	██████████████████	Councillor
	██████████	Councillor
	██████████████████	Councillor
By Invitation	██████████	Acting CEO
	██████████	Manager Supply Chain
	██████████████████	CAE
	██████████	Executive Legal Risk and CCC
	██████████████	Corporate Secretary
	██████████████	Secretariat Officer
	██████████████	Secretariat Officer
	██████████	Secretariat Officer
	██████████	Secretariat Intern
Partial Attendees	██████████	Executive Licensing and Compliance
	██████████	Executive Engineering and Technology
	██████████	Acting Executive Human Resources
	██████████████	Radio Frequency Specialist
	██████████████	Manager Broadcasting Frequency Coordination
	██████████	Senior Manager Type Approval and Numbering
	██████████	Manager Broadcasting Compliance

Apologies	Josephine Meyer	CFO
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No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>1.1. The Chairperson opened the meeting at 10:00 and welcomed all present.</p> <p>1.2. [REDACTED].</p> <p>The opening and apology were noted.</p>	Chairperson
2.	<p>Declaration of interest</p> <p>No conflict of interest was noted.</p>	Council
3.	<p>Ratification of the Agenda</p> <p>3.1 Under general to include – Plan on travelling.</p> <p>The agenda was adopted with the above amendment.</p>	All
4.	<p>Previous minutes of Council</p>	Council
4.1	<p>Minutes of Council: 14 June 2022</p> <p><u>The following amendments were made:</u></p> <p>4.1.1 Under 14.1 the sentence was rephrased.</p> <p>4.1.2 Under 16.3 the word male was corrected with mail.</p> <p>4.1.3 Under 15.3 the term Liquid was removed.</p> <p>4.1.4 Under 16.6 the term Liquid was removed.</p> <p>The minutes were adopted subject to the amendments made.</p>	Council

No.	Action Item	Person Responsible
4.2	<p>Minutes of Council: 14 July 2022</p> <p>The minutes were approved without any amendments.</p>	Council
4.3	<p>Minutes of Council: 29 July 2022</p> <p>4.3.1 Under 9.8 inserted “exit”.</p> <p>4.3.2 Under 10.9 inserted “including the licensing of the WOAN.”</p> <p>4.3.3 Under 16.6 inserted “contract”.</p> <p>4.3.4 Under 16.7 inserted “a”.</p> <p>4.3.5 Under 16 the following was inserted:</p> <p>“Management comments:</p> <p>Management has implemented proactive measures to ascertain the prevention of irregular expenditure through continuous reviews by Internal Audit and SCM. Same has resulted in AG not identifying any new or additional irregular expenditure.”</p>	Council
4.4	<p>Minutes of Council: 04 August 2022</p> <p>4.4.1 Under Item 6 inserted “(Standing Item)”</p> <p>4.4.2 Under 6.4 inserted “tabled”.</p> <p>The minutes were adopted subject to the amendments made.</p>	Council
5.	<p>Matters Arising</p> <p><u>Resolutions arising from the Matters Arising Document:</u></p> <p>5.1. Council resolved that a letter should be sent to the DCDT by the Corporate Secretary regarding Council salaries.</p> <p>5.2. Council resolved that Council salaries be a separate item on the Matters Arising.</p> <p>The update was noted by Council.</p>	Council


No.	Action Item	Person Responsible
6.1.	<p>Update on the International Relations programme for the 2022/23 Financial Year</p> <p>Executive: Corporate Services presented the item:</p> <p>6.1.1. The purpose of the submission was to provide Council with a substantive update on the International Relations programme for the 2022/23 Financial Year.</p> <p><u>6.1.2 Recommendations:</u></p> <p>6.1.2. It is recommended that Council –</p> <p>6.1.2.1. Note the update provided on the international relations programme.</p> <p>6.1.2.2. Nominate Councillors to attend the outlined meetings.</p> <p><u>Comments and Resolutions</u></p> <p>6.1.1. Council expressed that the Authority should assess the benefit of participating in certain forums and the attendance of conferences, in order to ascertain the direct benefit of partaking in the invitations received.</p> <p>6.1.2. Council resolved that Cllr █████ must attend the WRC virtually on 29 November to 2 December 2022, and further, that Management send a delegation to attend.</p> <p>6.1.3. Council resolved that Management should develop a travel checklist to ensure that all the necessary documents are obtained prior to any international travel.</p> <p>6.1.4. Council resolved that from the meetings and conferences attended, the delegation should draft a report and present it to Council.</p>	<p>Acting CEO/ Exec Corporate Services</p>

No.	Action Item	Person Responsible
	<p>6.1.5. Council resolved that Management look into the circular regarding diplomatic passports and implement the direction from the circular.</p> <p>Council noted the submission.</p>	
7.	<p>Licensing of IMT (Standing Item)</p> <p>The Committee Project Manager presented the update.</p> <p><u>Cell C payment plan request:</u></p> <p>7.1. Council expressed that the Authority cannot give Cell C any further extensions as it would not be fair on all the other licensees and the further that the extension would not be in line with the terms and conditions as expressed in the ITA.</p> <p>7.2. Council resolved that the Authority's response letter be circulated to Councillors, which in the main should state that the Authority will not consider any further request for an extension.</p> <p>The update on the licensing of IMT was noted.</p>	Cllr ██████
8.	<p>Litigation Update ("Standing Item")</p> <p>The Executive Legal Risk and CCC presented the update.</p> <p>8.1. The purpose of the submission was to appraise Council about the litigation status of the Authority.</p> <p>8.2. Council was requested to note the current twelve (12) litigation matters namely:</p> <p>8.2.1 Godfrey Maulana Vs ICASA;</p> <p>8.2.2 Postnet Southern Africa vs ICASA and others;</p> <p>8.2.3 Vaal Community Radio Pty Ltd vs ICASA and others;</p> <p>8.2.4 Walking on Water Television vs ICASA & Others;</p> <p>8.2.5 National Council of and for Persons with Disabilities vs ICASA & Others;</p> <p>8.2.6 VUMA FM v ICASA & Others;</p> <p>8.2.7 HOT 1027 FM v ICASA & Others;</p> <p>8.2.8 SMSPORTAL Pty Ltd vs ICASA & Others;</p> <p>8.2.9 ICASA vs NEHAWU;</p> <p>8.2.10 Open Heaven FM v ICASA;</p> <p>8.2.11 MTN v ICASA ; and</p>	Acting CEO/ Exec: Legal, Risk & CCC

No.	Action Item	Person Responsible
	<p>8.2.12 Telkom v ICASA.</p> <p>The update on Litigation was noted.</p>	
9.	<p>Application by SABC - Exemption from Compliance with licence conditions to Broadcast Sport of National Interest – 2022 FIFA Soccer World Cup Matches (Qatar)</p> <p>The Executive: Licensing and Compliance presented the item:</p> <p>9.1. The purpose of the submission was to request Council to approve SABC’s (“the Licensee”) application for exemption from compliance , in terms of its licence terms and conditions for SABC 1, 2 and 3 television services and some of its public radio services and the Sport Broadcasting Services Amendment Regulations, 2021 (“Regulations”).</p> <p><u>Recommendations:</u></p> <p>9.2. <u>Council</u> approves the SABC’s application for exemption from compliance with their licence terms and conditions during the broadcasting of the 2022 FIFA World Cup Matches (QATAR), scheduled between 21 November and 18 December 2022.</p> <p><u>Comments and Resolutions</u></p> <p>9.3. Council sought clarity regarding the impact of this exemption application on SABC 2’s Children’s programming</p> <p>9.4. Management informed Council that Children’s programming will be affected, and that the hours lost will not be recuperated, however if Council does not approve the request, soccer fans across South Africa will be unable to view some of the Soccer World Cup matches.</p> <p>9.5. Council expressed that the airing of the Soccer World Cup will be in public interest, and further expressed that the Soccer World Cup will be an opportunity for SABC to raise funds.</p> <p>The submission was approved.</p>	CEO/ Exec: Licensing and Compliance

No.	Action Item	Person Responsible
10.	<p>Notice regarding the Radio Frequency Spectrum Assignment plans for Specific Radiocommunications Systems</p> <p>The Chairperson of the Committee presented the item:</p> <p>10.1. The purpose of this submission was to request Council to:</p> <p>10.1.1. Approve the following eight (8) Draft Radio Frequency Spectrum Assignment Plans (RFSAPs) for Specific Radiocommunications Systems for public consultation.</p> <p>10.1.1.1. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 138-144 MHz for public consultation;</p> <p>10.1.1.2. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 156.8375 – 174MHz for public consultation;</p> <p>10.1.1.3. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 335.4MHz to 380 MHz for public consultation;</p> <p>10.1.1.4. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 380 MHz to 399.9 MHz for public consultation;</p> <p>10.1.1.5. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 406.1MHz to 410 MHz for public consultation;</p> <p>10.1.1.6. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 410 to 430 MHz for public consultation;</p> <p>10.1.1.7. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 440 to 450 MHz for public consultation;</p> <p>10.1.1.8. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 1518 to 1525 MHz for public consultation.</p> <p>10.1.2. Invite the Chief Executive Officer, upon publication of the notices in the Government Gazette, to direct the Licensing Division to communicate the public</p>	<p>Cllr</p> <p>██████████</p>

No.	Action Item	Person Responsible
	<p>consultation process of the eight (8) Draft Radio Frequency Spectrum Assignment Plans, to the relevant licensees and affected operators as appropriate.</p> <p><u>Recommendations:</u></p> <p>10.2. It was recommended that:</p> <p>10.2.1. Council approves the following eight (8) draft Radio Frequency Spectrum Assignment Plans (RFSAPs) for Specific Radiocommunications Systems for public consultation;</p> <p>10.2.1.1. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 138 to 144 MHz for public consultation;</p> <p>10.2.1.2. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 156.8375 to 174MHz for public consultation;</p> <p>10.2.1.3. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 335.4MHz to 380 MHz for public consultation;</p> <p>10.2.1.4. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 380 MHz to 399.9 MHz for public consultation;</p> <p>10.2.1.5. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 406.1MHz to 410 MHz for public consultation;</p> <p>10.2.1.6. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 410 to 430 MHz for public consultation;</p> <p>10.2.1.7. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 440 to 450 MHz for public consultation;</p> <p>10.2.1.8. Draft Radio Frequency Spectrum Assignment Plan for the frequency band 1518 to 1525 MHz for public consultation.</p>	

No.	Action Item	Person Responsible
	<p>10.2.2. Invite the Chief Executive Officer, upon publication of the notices in the Government Gazette, to direct the Licensing Division to communicate the public consultation process of the eight (8) Draft Radio Frequency Spectrum Assignment Plans, to the relevant licensees and affected operators as appropriate.</p> <p><u>Comments and Resolutions</u></p> <p>10.3. Council requested the Committee to clarify the expected closing date for applications?.</p> <p>10.4. The Committee informed Council that the closing date will be after 30 – 35 days.</p> <p>10.5. Council sought clarity regarding paragraph 3.6.7.3 of the submission concerning “half the spectrum available”.</p> <p>10.6. The Committee informed Council that in terms of the channel arrangements, only half of the spectrum available as per paragraph 3.6.7.3 can be used.</p> <p>10.7. Council sought further clarification on how the contents of paragraph 4.2 of the submission would be implemented.</p> <p>10.8. The Committee informed Council that the Government Gazette will be published and further that there will be communication to the affected entities.</p> <p>The submission was approved.</p>	
11.	<p>Received Applications in respect of the Invitation To Pre-Register for Community Sound Broadcasting Service and Radio Frequency Spectrum Licences</p> <p>The Committee Chairperson presented the item:</p> <p>11.1. The purpose of the submission was to:</p> <p>11.1.1. Advise Council of the applications received in response to the Invitation to Pre-Registration for Community Sound Broadcasting Service ("CSBS") and Radio Frequency Spectrum ("RFS") licences ("the ITP-R");</p>	Cllr 

No.	Action Item	Person Responsible
	<p>11.1.2. Recommend that Council approves disqualification of forty-nine (49) non-compliant applications;</p> <p>11.1.3. Recommend that Council approves the draft Notice inviting interested parties to submit written representations on the fifty-six (56) applications that are admitted to Phase 1 of the ITP-R licensing process, for publication on the Authority's website and Government Gazette; and</p> <p>11.1.4. Recommend that Council approves the draft media statement of received applications, for publication on the Authority's website.</p> <p><u>It was recommended that Council:</u></p> <p>11.2. Notes the applications received in response to the ITP-R;</p> <p>11.3. Approves disqualification of the forty-nine (49) non-compliant applications;</p> <p>11.4. Approves the draft Notice inviting interested parties to submit written representations on the fifty-six (56) applications that are admitted to Phase 1 of the ITP-R licensing process, for publication on the Authority's website and Government Gazette; and</p> <p>11.5. Approves the draft media statement of all the received applications, for publication on the Authority's website.</p> <p><u>Comments and Resolutions</u></p> <p>11.6. Council inquired if the incompleteness of the application by Kganya FM justified its disqualification.</p> <p>11.7. Council was informed that Kganya FM submitted most of their information after the closing deadline of 4:30pm, and further, their Form 4 was not Commissioned nor completed, resulting in the disqualification.</p>	

No.	Action Item	Person Responsible
	<p>11.8. Council inquired whether the Authority has satisfied itself that the late applications were not caused by any internal IT challenges.</p> <p>11.9. Council sought clarity on whether the process allows the applicants recourse to fix their errors.</p> <p>11.10. The Committee informed Council that the late applications were not attributed to any internal IT challenges. Council was informed that the IT division ran an assessment to ensure that there was no internal IT glitch on the part of the Authority that could have led to late applications.</p> <p>11.11. The Committee further explained that in an effort to assist the interested parties, the Authority has conducted five (5) workshops on how to complete the application.</p> <p>11.12. The Committee informed Council that the online application process does not allow for corrective measures as per the ITPR thus no corrective action will be considered.</p> <p>11.13. Council resolved that the disqualified applicants must be notified in writing prior to the publishing of the successful candidates.</p> <p>The submission was approved.</p>	
12.	<p>Automated software-based spectrum management system (“ASMS”) Update</p> <p>The Executive: Corporate Services presented the item:</p> <p>12.1. The purpose of the submission was to apprise Council on the ASMS update.</p> <p>12.2. ICASA requires an ASMS that is customized for licensing, type approval and overall spectrum management functions. The implementation of the ASMS is aligned with ICASA’s relevant business rules and processes, across the various departments such as, Spectrum Licensing, Spectrum Monitoring, IT, Type Approval and Finance. The ASMS solution and IT</p>	<p>Acting CEO/ Executive: Corporate Services</p>

No.	Action Item	Person Responsible
	<p>infrastructure aligns with the requirements of an enterprise system</p> <p><u>Recommendation to Council:</u></p> <p>12.3. It was recommended that Council notes the ASMS update.</p> <p><u>Comments and Resolutions</u></p> <p>12.4. Council inquired about the number of Licenses that have not been issued by the system, and requested the reason for the non-use of the system.</p> <p>12.5. Council sought clarity if the system was working as it is supposed to be working?</p> <p>12.6. Council inquired about the reasons for the challenges faced by the system.</p> <p>12.7. Council further inquired if the implementation of the ASMS has resulted in the previous delays with respect to the recording of license applications faced by the Division.</p> <p>12.8. Management informed Council that the other Licenses which have currently not been processed through the system was as a result of the challenges experienced with the usage of system, and further that there is an ongoing process where the applications are being manually loaded and will reflect at a later stage.</p> <p>12.9. Management informed Council that the system is in operation, however it is dependent on the IT Division providing the necessary capacity to monitor and run the system.</p> <p>The submission was noted.</p>	
13.	<p>Shutdown Period for December 2022</p> <p>The Acting Executive: HR presented the item.</p> <p>13.1. The purpose of the submission was for Council to approve the December 2022 shutdown period and the alternative</p>	<p>Acting CEO / Acting Executive: HR</p>

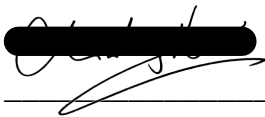
No.	Action Item	Person Responsible
	<p>arrangements that should be made for critical services during this shutdown period, as per the approved Leave Policy 2020.</p> <p><u>Recommendation to Council:</u></p> <p>13.2. It was recommended that Council:</p> <p>13.2.1. Note that the Authority will officially close operations from 19 December to 23 December 2022 (Compulsory leave);</p> <p>13.2.2. Approves the December 2022 shutdown leave with full pay from 27 to 30 December 2022;</p> <p>13.2.3. Note that alternative arrangements will be made for critical services during this shutdown period, as per the approved Leave Policy;</p> <p>13.2.4. Approves a communication will be sent to staff members about the shutdown period and alternative arrangements to be made.</p> <p><u>Comments and Resolutions</u></p> <p>13.3 Council resolved that the terminology to be used be in line with the statement issued in December 2021.</p> <p>Council approved the submission.</p>	
14.	<p>Supplementary Submission for Performance Rewards Payment 2021/22FY</p> <p>The Acting Executive: HR presented the item:</p> <p>14.1. The purpose of the submission was to request Council [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p><u>Recommendation to Council:</u></p>	<p>Acting CEO / Acting Executive: HR</p>

No.	Action Item	Person Responsible
	<p>14.2. It was recommended that Council:</p> <p>14.2.1. Rescind [REDACTED] [REDACTED] [REDACTED]</p> <p>14.2.2. Approve [REDACTED] [REDACTED] [REDACTED]</p> <p>14.2.2.1. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>14.2.2.2. [REDACTED] [REDACTED]</p> <p>14.2.2.3. [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p><u>Comments and Resolutions</u></p> <p>14.3. Council inquired [REDACTED] [REDACTED]</p> <p>14.4. Council expressed [REDACTED] [REDACTED]</p> <p>14.5. Management informed [REDACTED] [REDACTED] [REDACTED]</p>	

No.	Action Item	Person Responsible
	<p>14.6. Council resolved [REDACTED] [REDACTED] [REDACTED]</p> <p>The submission was approved, subject to the amendment made.</p>	
15.	<p>Settlement Terms for the Review Application on the Amendment Application of Vuma FM’s Individual Commercial Sound Broadcasting Service Licence in the matter Between Vuma Fm and ICASA</p> <p>The Executive: Legal Risk & CCC presented the item:</p> <p>15.1. The purpose of the submission was to apprise Council of the settlement terms for the Review Application in respect of the amendment application of Vuma FM’s individual commercial sound broadcasting (“I-CSBS”) licence dated 27 July 2020 in the matter between Vuma FM and ICASA Case No. 61869/21, and recommend that Council approves that the Authority should accept the terms and that the LRCCC Division should proceed and instruct the Attorneys of Record to attend to the conclusion of the settlement agreement.</p> <p><u>Recommendation to Council:</u></p> <p>15.2. It is recommended that Council consider the settlement terms proposed by Vuma FM and approve one of the following recommended options:</p> <p><u>Option 1</u></p> <p>15.2.1. Vuma withdraws the review application lodged with the High Court under case number 61869/21.</p> <p>15.2.2. Vuma FM will file a new amendment application for the Authority to consider.</p> <p>15.2.3. It is agreed that the application will still be assessed in terms of the applicable relevant legislative prescripts and that this agreement does not guarantee that the application will be granted as applied.</p>	Acting CEO / Executive: Legal Risk & CCC

No.	Action Item	Person Responsible
	<p>15.2.4. The terms and conditions of the Individual Broadcasting Service Licence No.:018/COMMERCIAL/R/MARCH/2021, granted and issued to Vuma FM and amended on 17/03/2021, will continue to apply until the Authority has made a decision on the amendment application.</p> <p>15.2.5. Each Party pays its own costs.</p> <p><u>Option 2</u></p> <p>15.2.6. Vuma withdraws the review application lodged with the High Court under case number 61869/21.</p> <p>15.2.7. Vuma FM will file a new amendment application for the Authority to consider.</p> <p>15.2.8. It is agreed that the application will still be assessed in terms of the applicable relevant legislative prescripts and that this agreement does not guarantee that the application will be granted as applied.</p> <p>15.2.9. The terms and conditions of the Individual Broadcasting Service Licence No.:018/COMMERCIAL/R/MARCH/2021, granted and issued to Vuma FM and amended on 17/03/2021, will continue to apply until the Authority has made a decision on the amendment application.</p> <p>15.2.10. Vuma tender ICASA's wasted costs.</p> <p><u>Comments and Resolutions</u></p> <p>xx</p> <p>15.3. After considering the above scenarios Council resolved to approve the proposed settlement terms and conditions as follows: (a) Vuma withdraws the review application lodged with the High Court under case number 61869/21;</p>	

No.	Action Item	Person Responsible
	<p>(b) The terms and conditions of the Individual Broadcasting Service Licence No: 018/COMMERCIAL/R/MARCH/2021 granted and issued to Vuma FM will continue to apply; and (c) Each party to pay its own costs.</p> <p>Council approved the above settlement terms and conditions</p>	
16.	<p>Quarter 2 Progress Report on The Review of Policies</p> <p>The submission was deferred to the next Council meeting.</p>	<p>Acting CEO / Executive: Legal Risk & CCC</p>
17.	<p>AREDC Terms of Reference</p> <p>The submission was deferred to the next Council meeting.</p>	<p>Chief Audit Executive</p>
18.	<p>General</p>	
18.1.	<p>Invitation to attend the 2022 International Anti-Corruption Day</p> <p>18.1 The invitation was approved, and the following delegation was proposed:</p> <p>18.1.1. Any Councillor who will be interested;</p> <p>18.1.2. AREDC Members;</p> <p>18.1.3. The Chief Audit Executive.</p> <p>The invitation was approved.</p>	
15.	<p>Closure</p> <p>The Chairperson thanked all who were present at the meeting and declared the meeting adjourned at 16:04pm.</p>	<p>Council</p>

Signed:  _____

Dr Charley Lewis
(Acting Chairperson)

Date: 2023-03-16 _____