

MUNICIPAL PUBLIC TRANSPORT IN CAPE TOWN: INSTITUTIONAL ARRANGEMENTS

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ABSTRACT

National legislation is placing or encouraging more and specific responsibilities on Cities as regards the planning of integrated public transport networks and the provision of municipal public transport services. The aim of this paper is to provide an overview of the progress and conclusions of the various processes in the City of Cape Town to meet the challenges it is bringing. It has resulted in a Council recommendation for an appropriate mechanism for the provision of municipal public transport services and draft proposals for other institutional structures to be developed.

1. INTRODUCTION

1.1 Background

The National Land Transport Act (NLTA) (Act no. 5 of 2009) and the draft regulations in terms thereof, as well as other initiatives from national government, is placing more and specific responsibilities on Cities as regards the planning of integrated public transport networks and the provision of municipal public transport services. The NLTA formulates the roles and responsibilities of the various spheres of government and also specifies the establishment of certain structures. Together with existing municipal legislation which guides certain processes that need to be followed to provide the services, these all need to translate into implementable actions.

1.2 Aim of paper

The aim of this paper is to provide an overview of the progress and outcome of the various processes in the City of Cape Town as regards the provision of municipal public transport services, the conclusions and recommendation of which recommends the establishment of a Municipal Entity in terms of the Municipal Systems Act (MSA) and Municipal Finance Management Act (MFMA) as well as further proposals on administrative institutional arrangements.

The scope of the paper is to summarise the processes of sections 78 of the (MSA) and 84 (of the MFMA), and to provide terms of references, membership and deliverables on envisaged institutional structures.

2. PROVISION OF MUNICIPAL PUBLIC TRANSPORT SERVICES(PROCESS IN TERMS OF SECTION 78 OF THE MUNICIPAL SYSTEMS ACT)

The “provision of municipal public transport services” for the purposes of this paper is defined as the overseeing of implementation / delivery of municipal public transport services. The planning aspects of the networks and broad specification of services, which precedes this function, remain an internal City function and is not subject to the s78 process. (Certain institutional arrangements to deal with the latter aspect are, however, required and are discussed in paragraph 3 below).

2.1 Section 78 (1)

For reasons stipulated in the MSA, the function of the municipality as regards municipal public transport services requires a s78 of the MSA process. Following on a section 78 (1) report to City of Cape Town in March 2008, Council noted the implications of providing the services by internal mechanism and resolved that the provision of these services, by way of an external mechanism should also be explored (as provided for in section 78(2) of the MSA). Some pertinent points from the report include the following

- In terms of The Constitution the municipality has executive authority in respect of municipal public transport
- A City run restructured public transport service is estimated to cost R5,3b per annum
- City cannot reorganise its current staff complement in order to operate municipal public transport services
- The overall trend for the provision of such services (actual operations) is that it is undertaken by private companies.

2.2 Section 78 (3)

A section 78 (3) assessment then explored various external options as well and Council resolved (as provided for in section 78(4) of the MSA) to support a Municipal Entity (ME) as the appropriate mechanism. Also, that City embarks on the required s84 process in terms of chapter 10 of the MFMA before the establishment thereof. Some pertinent points in the course of the assessment included the following:

- A single entity is desirable in order to achieve the objective of integrating the provision of public transport services
- The BRT mode is the only “new” service requiring a preferred mechanism i.t.o. a section 78 process, but in pursuance of the aforementioned objective the preferred mechanism would be mandated to “deal” with all public transport modes, including to

conclude an agreement with the PRASA as regards rail services (having regard of the fact that City was not responsible for the provision of rail services as yet)

- The intention is for the ME not to operate any municipal public transport services internal to itself
- “Other institutions or entity” (private operator in this context) as a mechanism, if managed internally by the City, will still add much benefit i.t.o. of the competitive bidding processes, but the commercial competence (knowledge, experience expertise) of a well selected board of directors will not be achieved
- Labour preferred an internal mechanism.

2.3 Section 84 process for the establishment of a Municipal Entity

The section 84 process, which inter alia requires broad consultation with various governmental departments, the public, labour and other affected parties, was completed and no comment or input had been received to indicate any reason (in the view of the City) for City not to proceed with the establishment of an Entity.

A draft Business Plan (BP) for the establishment of the ME was developed. It recommended that the City endeavours (pursue) to recover equal portions of funding from other spheres of government for the ME itself.

Other recommendations / pertinent points from the *draft* report included the following:

- The approval of the establishment of a ME for the provision of municipal public transport services (including the proposed form thereof as provided for in clause 86B of the Municipal Systems Act)
- The precise function of the ME will be the provision of municipal public transport services in the City of Cape Town’s jurisdictional area through the management of the operations of (eventually all) municipal public transport modes / services (as well as other supporting functions necessary towards the purpose of achieving of higher levels of integration)
- It envisaged that once the ME has been established it will as its first responsibility undertake the functions necessary to administer the City’s MyCiTi (BRT) service. The ME will incrementally take on more public transport functions (modes) subject to the approval by Council of a BP for each mode. The additional functions / modes may include the Dial-a-Ride bus service, the administration of agreements between the City and PRASA and the management of public transport interchanges. These functions are currently being undertaken directly by the City.
- The central focus of the ME is to bring high levels of service orientation and business and management acumen to the integration and effective operations of public transport services
- The City’s role in relation to the ME is to
 - to retain the role of planning authority as provided for in legislation with regard to inter alia the function of integrated public transport services, and to mandate the

management of operations and administering of public transport subsidies (if applicable) thereof to the ME in terms of a Service Delivery Agreement

- to approve Business Plans (BP's) for public transport modes / services for which the operations are to be managed by the ME
- secure funding for the (municipal) public transport services
- prescribe the adjustment of service levels in the event of funding short fall and
- approve fare level adjustments.

Prior to the draft report serving before Council, it was decided that City should first achieve higher levels of confidence in the projected implications of the roll out of the MyCiTi (initially the BRT) service in order to identify and minimise the risks of the system to the City before creating a ME. The level and extent of operations required to justify the establishment of the ME is not expected to be achieved before September 2011. Aforementioned meant that there is a need for internal capacity to oversee MyCiTi operations prior to the establishment of a ME. It also meant that approval by Council for the interim provision of the services (an amended section 78 (4) decision) was required. This as well as permission to the City Manager for the establishment of an internal structure to manage same, was approved by Council in May 2010.

The relationship between the City and the ME (together with other relationships discussed in paragraph 3) is depicted in Figure 1. This indicates that the ME will report directly to the Directorate of Roads and Major Projects (TR&MP), which will in turn be responsible to the City for the performance of the ME. The Directorate will undertake the monitoring and oversight function of the ME in terms of municipal legislation and practise, which will require the ME to report on a regular basis on a wide range of performance indicators. The detailed functions and responsibilities of the City and the ME, and the levels of performance required of the ME, will be contained in the SDA which may from time to time be amended as the ME takes on additional responsibilities.

TRANSPORT PLANNING (INSTITUTIONAL STRUCTURES)

(Note: The proposals included below are only draft and not necessarily approved within City or by Council).

The institutional arrangements as regards public transport planning function of the municipality (which essentially informs the "provision" phase) is guided by stipulations of the NLTA and draft regulations and which mainly entail the establishment of an Intermodal Planning Committee (IPC) and Land Transport Advisory Board (LTAB).

The proposed overall structure of the IPC (including sub-structure) and the LTAB in relation to other structures in the City is shown below in figure 1. This structure illustrates that the IPC will fall under the responsibility of the Directorate: Transport, Roads and Major Projects (TR&MP) and who will also administer the LTAB (including any matters being dealt with under the IPC that are referred for comment and input to the LTAB).

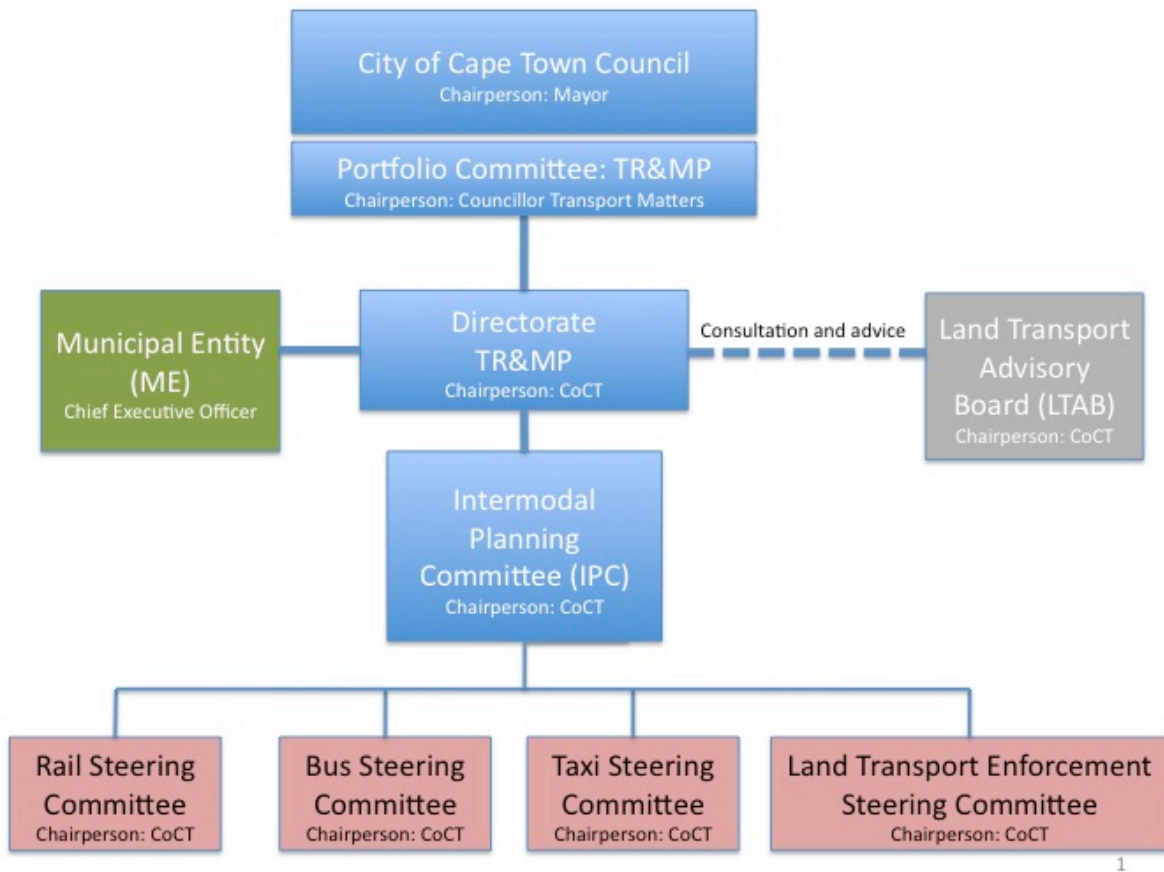


Figure 1: Overall structure of ME, IPC and LTAB

3.1 Intermodal Planning Committee (IPC)

The NLTA requires that a municipality having an “integrated public transport network” (as defined in the Act) must establish an IPC. The City of Cape Town has such a network and will thus need to comply with the requirement to establish its IPC.

It can be inferred from the legislative provisions read with the draft regulations that municipalities are to establish an IPC as a vehicle for consultation to develop the planning, co-ordination, financing and administration of all modes of public transport so as to progress towards the integrated multi-modal system that aligns with the City’s Integrated Transport Plan. This would suggest that priority matters to be considered by the IPC are as follows:

- Development of the Integrated Transport Plan and regular updates as required with input and consultation between stakeholders
- Improvement of passenger rail services in terms of the Regional Rail Plan aligned with the ITP
- Development of MyCiTi integrated bus services
- Phasing out of the interim bus contract,
- Assignment of the administration of bus contract/s from the Province to the City, and
- Integration of minibus-taxi services into the formal bus sector.

In accordance with the draft regulations, the IPC is to be chaired by a municipal official and will consist of officials of the National DOT, the Province, the Municipality and PRASA. The IPC is seen as body through which progress on transport projects and programs can be achieved through decisions agreed to by the respective parties represented on the IPC. Decisions would need to gain agreement of DOT, the Province, the City and PRASA to be binding and the City would be party to any decision that has a financial or other major implication for the City.

While section 15(1) of the NLTA suggests that membership of the IPC should consist of officials of government and representatives of “*other public transport modes, users and organised business*” the inclusion of non-governmental persons as permanent members is believed not to be the intention and will presumably be amended in time to come. (Such bodies are provided for in draft Regulation 7(4) which provides for *one or more representatives of Operators of road-based public transport services, users of public transport, or organized business in the area to be co-opted to address specific issues*).

In order to facilitate the working of the IPC, it is proposed that a sub-structure be created. Four “Steering Committees” will be established as sub-committees operating under the direction and co-ordination of the IPC, and all motivations, decisions and reports emanating from these committees will be administered through the IPC. The committees are established based on the need to deal with the issues of the three principal modes of public transport, being passenger rail, bus and taxi modes. To ensure that planning and operational matters in relation to these modes are considered in tandem with the appropriate land transport enforcement, a fourth standing committee – the Land Transport Enforcement Steering – will be established.

As regards the Rail Steering Committee, such committee was formed in September 2007 and a draft Memorandum of Understanding has since been drawn up and agreed to in principle by all intended signatories.

Organisational diagrams of the IPC and the Rail Steering Committee (RSC) are indicated in figure 2 and for one of the sub-structures of the RSC (i.e. the Rail Operations Committee) in figure 3. Similar diagrams for further sub structures of the RSC (i.e. Rail Safety Committee and Rail Infrastructure Committee) as well as for other modes in terms of membership, terms of reference, deliverables, etc. have also been developed (but not indicated in the figures).

Intermodal Planning Committee (IPC)

<p>Terms of reference</p> <p><i>Legislative framework:</i></p> <p>S15 (2) of NLTA: "The function of an IPC is to co-ordinate public transport between modes in order to achieve the objects of this Act"</p> <p><i>Objectives:</i></p> <ul style="list-style-type: none"> ❖ Report to TR&MP/Council and obtain approval of projects ❖ Facilitate the integration of modes ❖ Co-ordinate activities and objectives with PTIC (see below) 	<p>Membership</p> <p><i>Meeting intervals:</i> Quarterly</p> <p><i>Standing membership:</i></p> <p>R7 (3) of NLTA</p> <ul style="list-style-type: none"> ❖ DOT officials ❖ PGWC officials ❖ Municipal public transport officials ❖ Municipal land use officials ❖ PRASA officials R7(4) of NLTA ❖ Chairperson a municipal official
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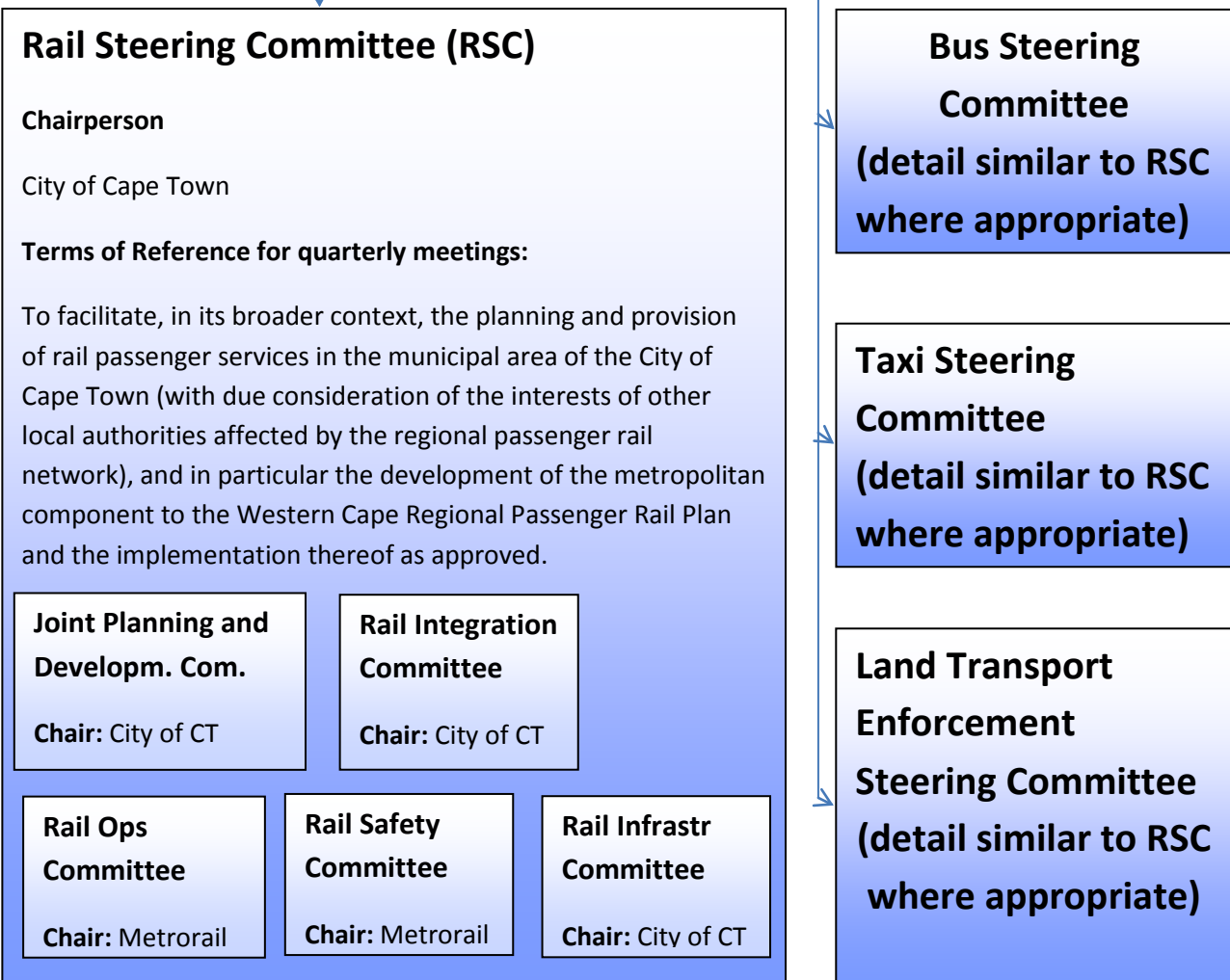


Figure 2: Intermodal Planning Committee

Rail Operations Committee

Chairperson

Metrorail

(To be nominated by Metrorail)

Terms of Reference for quarterly meetings:

The Rail Operations Committee derives its mandate from the Rail Steering Committee (RSC) with the aim to examine rail operations.

The Rail Operations Committee will focus on passenger rail only, but will take cognisance of the interaction between passenger and freight rail operations.

The chair or a representative of this committee will attend the quarterly RSC meetings, giving a committee progress report.

Discussion items to include:

- Patronage
- Rolling Stock availability
- Reliability / Timekeeping
- Fare Evasion
- Holiday Services
- Passenger information
- Overcrowding
- Results of passenger perception surveys
- Complaints management
- Other (incl. graffiti)
- Evacuation routes / areas
- Subways (street-to-street)
- Bridges (street-to-street)
- Special Events
- to be expanded upon

Deliverables:

- monthly statistics (as agreed by committee)
- quarterly progress report (for submission to RWC and RSC)

Figure 3

Standing Members:

- **Metrorail**
Operations – Richard Walker

Business Development - Sivuyele Bebelele
- **Shosholoza Meyl**
Pieter Aucamp
- **Intersite**
Moseli Ntsiki

Enver Dollie

Ndzondelelo Simunca

Henry Masimla
- **City of Cape Town**
Transport Planning – Louis Holtzhausen

Transport – Yunus Petersen

Public Transport – Llewellyn Divine

Tourism – Pauline van der Spuy

Communications – Ester Moag
- **PGWC: Transport & Public Works**
Gamza Meyer

Additional Distribution /

Members to be invite on request:

- **Metrorail**
- **Intersite**
Hannes van Wyk
- **City of Cape Town**
Transport Network Infrastructure
Development – Tony Vieira

3.2 Land Transport Advisory board (LTAB)

The function of land transport advisory boards as provided for in the NLTA is to allow for communication between the municipality undertaking the planning and administration of land transport and its important stakeholders, i.e. the operators of transport services, organized business, commerce and the general public. The establishment of the LTAB by the municipality is not mandatory, but is encouraged. The NLTA provides inter alia that a planning authority *may* establish a land transport advisory board with representation from government and the private sector, to advise it in relation to land transport matters. Figure 4 reflects a draft City proposal with some detail as regards the LTAB.

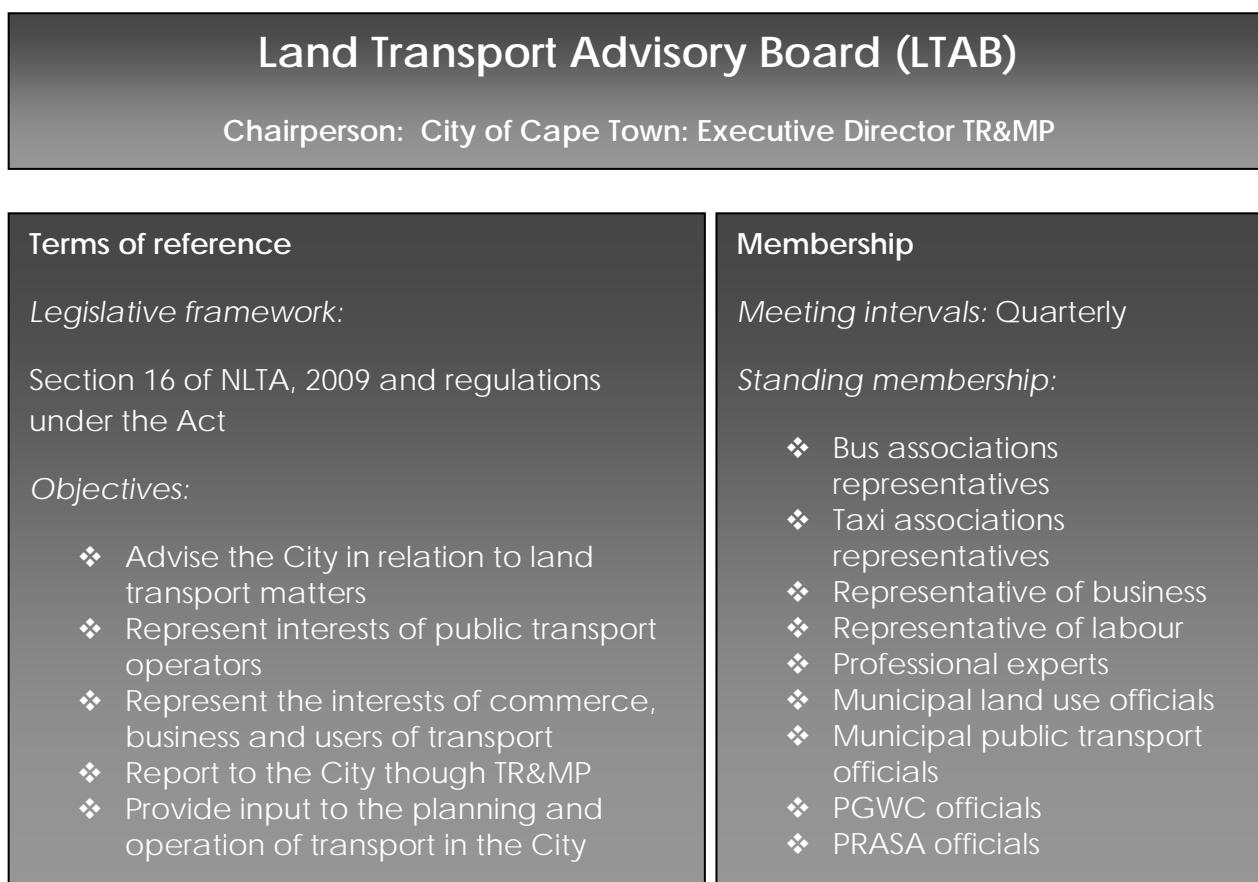


Figure 4: Land Transport Advisory Board

The City's Department of TR&MP initiated the establishment of a Transport Planning Advisory Council (TPAC) in 2008 with the objective of consulting with all stakeholders in Cape Town having an interest in transport matters. This committee, which had a similar constitution to the envisaged LTAB, held one meeting during July 2008 with the objective of meeting on a quarterly basis. The TPAC will be reconfigured into a LTAB in terms of the basic rules of constitution proposed in the draft regulations under the NLTA. At a first meeting of the LTAB its constitution, objectives and rules of procedure can be approved to guide forthcoming meetings to be held on a regular basis.

4. CONCLUSIONS

Municipalities face critical new challenges in preparing to fulfil an enhance role in the provision of municipal public transport services. The City of Cape Town is employing a phased process towards the ultimate establishment of a Municipal Entity to achieve the objectives of commercial competence and integration of public transport services.

Other institutional arrangements as prescribed by land transport legislation needs to be well planned, formulated and structured and managed to create effective vehicles for the planning as well as implementation of the services.

The implementation phases to follow require an important shift from a “planning only” focus to sound corporate governance and business management of service provision.

“Cities won’t achieve decent service delivery by good planning only”