

TSHWANE TRANSPORT AUTHORITY: A GOOD BUSINESS CASE - BUT CAN IT WORK IN PRACTICE?

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ABSTRACT

The City of Tshwane and its predecessor, the Greater Pretoria Metropolitan Council, has been developing the concept of the establishment of a transport authority for the then Greater Pretoria Area, now Tshwane, for some time as already reported at the 2000 Durban IMESA Conference. The National Land Transport Transition Act (2000), as well as the Gauteng Transport Framework Revision Act (2002), provides the legal framework within which the Tshwane Transport Authority and its Technical Executive can now be established. The hosting of the 2010 Soccer World Cup in South Africa has made the establishment of transport authorities in the RSA a matter of urgency.

The first part of the paper will look into the background and foundation work done over a number of years. This will be followed by a section in which lessons learned from local and overseas study visits, investigations and consultations on the subject will be highlighted. The main part of the paper will look at a business plan or motivating memorandum for establishment of the Tshwane Transport Authority and its supporting Technical Executive, as required by the *“Provincial Provisions on the formation of Transport Authorities in Gauteng”*.

The paper will be concluded with the highlighting of some outstanding issues that needs to be resolved. This should be of assistance to other potential transport authorities in the RSA. In many cases the solution to the issues raised does not only lie in the hands of the metropolitan municipalities and larger cities but rather in the hands of all three spheres of government.

1. BACKGROUND

In terms of the National Land Transport Transition Act, 2000 (NLTTA) and the Gauteng Transport Framework Revision Act, 2002 (GTFRA), transport authorities (TA's) may be established in the local sphere of government if their effect is to *“improve transport service delivery by grouping transport functions into a single, well-managed and focused institutional structure.”* A transport authority must be *“a separate legal entity along - side a municipality, which is governed and controlled by a governing body of councillors of the municipality”*. Professional, technical, administrative, clerical and other work arising from, necessary for, associated with or incidental to the functioning of the transport authority (TA) is to be undertaken by a body called a Transport Executive (TE).

Pressure to establish TA's in South Africa has significantly increased since the announcement in May 2004 that the country will host the 2010 World Soccer Cup (WSC). The International Soccer Federation (FIFA) is very specific in terms of transport requirements for cities that are hosting WSC events. It will virtually be impossible for a city

to comply with FIFA's requirements without having some sort of transport authority in place. At the same time, it must be said that FIFA does not specifically insist on TA's for WSC host cities.

Investigations into the establishment of a transport authority for the Tshwane metropolitan area started as early as 1997 under the auspices of the former Greater Pretoria Metropolitan Council. These investigations and follow up studies done by the City of Tshwane Metropolitan Municipality (CTMM) lead to a decision been taken by the CTMM on 24 April 2003 that "the possible establishment of a TA be subject to satisfactory discussions on a motivating memorandum, a founding agreement and financial arrangements, between the City of Tshwane Metropolitan Municipality, the national Department of Transport and Gautrans" (Gauteng Provincial Department of Public Transport, Roads and Works).

The Council also approved that capacity - building with respect to transport authorities is undertaken. Members of the relevant Portfolio Committee and officials undertook study visits to existing transport authorities, locally and abroad. Workshops were also held that were attended by both councillors and officials. The CTMM also participated in a special work group of the Gauteng Transport Co-ordinating Committee (TCC) on transport authorities. Workshops under the auspices of the national Cities Network were attended at which presentations were made.

2. STUDY VISITS AND CONSULTATIONS

2.1 Local initiatives

A study visit was undertaken during May 2004 by politicians and officials from Tshwane to the Ethekewini Metropolitan Municipality in Durban. At the time Ethekewini had just officially become the first TA in the RSA. The main findings from the visit centred on the fact that Ethekewini Transport Authority (ETA) was seen as more a public transport authority than a proper TA, as it did not control the budget of the roads function. The fact that there was a Council Portfolio Committee for the roads function and a separate (political) governing body of the ETA was viewed not to support integration and good management and administration within the broader transport sector. The fact that the ETA had no guarantee with respect to medium term financial support from the Ethekewini Metropolitan Council, the Province of Kwazulu Natal and the national Department of Transport put a serious question mark on the sustainability of the ETA, once it's no longer regarded as a national demonstration project.

2.2 Overseas study visits

Two overseas study visits were undertaken. The first was undertaken to the United Kingdom (UK) and Kenya during July 2003. Three councillors and three officials participated in this study visit. All the authorities visited in the UK, with the exception of that of London, were public transport authorities and not fully fledged transport authorities. One of their main comments was that they would, with experience gained since 1968, prefer to be fully-fledged transport authorities and not only public transport authorities. The Kenyan situation is very relevant to our situation, especially from a public transport (bus) operations perspective. Kenya has only two spheres of government, namely national and local, which simplifies governance. This is perhaps something that can be considered in Gauteng in future.

The second study visit in June 2004 was to Canada. The metropolitan areas of Vancouver and Toronto were visited. Again three councillors and three officials participated. Two officials from North West Province as well as one from the Gauteng Province also participated. The Greater Vancouver Transport Authority, Translink, established in 1998, is today an example of one of the best-run transport authorities in the World. Much can be learned from the British Columbia (province) – Vancouver approach. Perhaps the aspect that stood out most significantly was the fact that Translink can raise its own funds, if approved by the 22 constituent municipalities. By proving the effective and efficient spending of funds on the transport system has in the recent past led to the approval of larger financial support to Translink. Translink has also recently embarked on a major toll road project which will support public transport and enhance further economic development, creating a more balanced metropolitan area. Translink also control and operate Vancouver's own light rail system, Skytrain. It is amazing to see how land-use development is now following the Skytrain line due to the accessibility of the rail system. Major nodal developments are taking place around the Skytrain stations.

In Toronto, two different entities take charge of the transport function, with its associated problems. The Toronto Transit commission is in charge of public transport, while a Department within the City of Toronto is responsible for the roads and traffic function. The City of Toronto is today a world leader in the field of traffic operations and management as demonstrated with a visit to the Toronto Traffic Operations Centre. Toronto also has the world's first fully electronic toll road, Highway E407, developed and managed by the private sector, as its western bypass.

2.3 Tshwane Council resolutions

Following the study visits the Tshwane Council on 24 July 2004 resolved that **the Tshwane Transport Authority (TTA) in principle be established pending** the finalisation of: **(a)** Investigations of powers, functions and duties of the TTA; **(b)** the responsible Member of the Mayoral Committee negotiates functions of the TTA with the relevant MEC's and the national Minister of Transport; **(c)** a Business Plan / Motivating Memorandum be submitted to the relevant MEC's **and (d)** a Founding Agreement is in place. It was also further resolved that the Municipal Manager must investigate various mechanisms of service delivery in terms of the Local Government: Municipal Systems Act (LGMSA 2000). The latter was necessary to establish whether the Transport Executive should be an internal municipal or external municipal entity.

3. BUSINESS CASE FOR THE TSHWANE TRANSPORT AUTHORITY:

3.1 Introduction

As required by *"The Provincial Provisions on the formation of Transport Authorities in Gauteng"* (March 2004), a Motivating Memorandum or Business Plan has been prepared by the Tshwane TA Task Team. The Business Plan addresses the following matters:

- i. Proposed TA transport area;
- ii. Functions to be performed;
- iii. Institutional model, governance and reporting mechanisms;
- iv. Transport Executive;
- v. Proposed Budget and Financing; and
- vi. A proposed Founding Agreement.

In terms of the Provincial Provisions a municipality, when applying to become a transport authority, must demonstrate to the relevant provincial authority that consultation with neighbouring municipalities has taken place and that the issue of joining forces with the view of establishing a single transport authority has been addressed.

In Tshwane's case the latter issue was specifically discussed with its two neighbouring metropolitan municipalities for Johannesburg and Ekurhuleni. In both cases it was felt at the time by all parties that such a step at that point in time would not be advisable. In Tshwane's case the recent formation a metropolitan municipality bringing together the administrations of thirteen local government administrations was a major achievement and must first be given the opportunity to become a stable service delivery mechanism. This was one of the reasons why the CTMM as early as 24 April 2003 resolved that if established the TTA's area of jurisdiction will be that of the CTMM.

Consultation and information sharing was also undertaken with the District Municipalities of the West Rand and Metsweding. An information sharing session was also held on 12 August 2004 with the member of the (provincial) executive, MEC Thibedi of the North West Province. Despite numerous efforts, it was impossible to hold a consultative session with the bordering municipality on the north western side, Bojanala District Municipality (Rustenburg) and two of its local municipalities, Madibeng and Moretele. This was despite concerted efforts to that effect by Tshwane and the North West Province.

A meeting was also held on 16 September 2004 with MEC Jacobs of Gauteng, who in general was supportive of the establishment of a TA for Tshwane. MEC Jacobs also indicated that if the mandatory function of commuter transport subsidisation is to be undertaken by the TTA it will have to include operational subsidies for the minibus - taxi mode and not only for buses. MEC Jacobs also indicated that the earliest likely starting date for the TTA was the 1st of April 2005, at the start of the new provincial government financial year. A further meeting on the establishment of the TTA was held with MEC Jacobs on 17 February 2005. At this meeting it became clear that the concept of a Gauteng City Region may seriously impact on the establishment of TA's for each of the three metropolitan municipalities in Gauteng.

3.2 Proposed Tshwane Transport Authority Area

3.2.1 Tshwane Council position on Tshwane Transport Authority Area

The Tshwane Council resolved as early as 24 April 2003 that "the area of jurisdiction for the TA for Tshwane (i.e. Transport area) should be the same as the jurisdiction area of the CTMM." Any possible future changes to the boundaries of Tshwane will automatically then be included in the TTA's transport area.

3.2.2 Transport Functionality of Tshwane Municipal Area

Within Gauteng the issue of transport authorities responsible for functional transport areas versus transport authorities for the metropolitan municipalities has been under debate for some time. Whilst it is not so easy to define a functional transport area for the southern parts of Gauteng, the northern part of Gauteng, which mainly comprises the Tshwane Metropolitan Municipality, is more "isolated" from the rest of Gauteng. Tshwane's transport links for all modes of transport into the rest of Gauteng are along distinct corridors that can easily be isolated. It has been established through a comprehensive household survey that was undertaken during 1998/99 in Tshwane region that around 95% of all personal trips during the morning peak period start and end within Tshwane. This must certainly be an indication that the Tshwane municipality is a functional transport area.



Figure 1: Tshwane in relation to other local authorities in Gauteng

The CTMM is currently a so-called “cross – border” municipality. All indications are that this situation will end in the near future as government its intention to do away with cross - border municipalities. Tshwane should therefore soon fall 100% within Gauteng. This however will not mean that cross border issues especially in terms of public transport will disappear. To complicate matters further, a transport authority may not include parts of a municipal area.

Note must also be taken of the fact that when the NLTTA was developed, it was never the intention to cover the whole of the RSA with wall-to-wall transport authorities. At most it was foreseen that TA’s should be established in and around the former 13 Core Cities as defined in the Urban Transport Act, and a few other urbanised areas. The highest priority then and even today must be to establish TA’s for the six metropolitan municipalities.

On the north western side of Tshwane for example only a full municipality, i.e. Moretele and/or Madibeng may be included in the TTA. Then immediately the TTA becomes a cross border authority again, something that government is conscientiously moving away from.

In order to deal effectively with these issues it is being proposed that where required permanent cross - border consultative structures be established between the TTA and the relevant local or district municipality. These consultative structures will be formed to accommodate both technical and political issues. Matters raised at these meetings will be put to the TTA Governing Body, at least for cognisance. **Figure 1** indicates Tshwane in relation to the other local authorities in Gauteng.

Within political circles in Gauteng there is currently a serious debate, led by the Office of the Premier, about the concept of a so-called Gauteng City Region. *The State of the Cities Report* (2004) indicates that Johannesburg, Ekurhuleni and Tshwane form part of a much larger urban system – the Gauteng Urban Conurbation or City Region. It however also states “*there are many good reasons for not treating this conurbation as a single city but it is important to recognize that the Gauteng Cities comprise “a polycentric urban region” presenting unique opportunities and challenges.*”

The same must be true in terms of the establishment of transport authorities in Gauteng. Tshwane’s technical position in effect is that TA’s must be established for each of the three metropolitan municipalities, as a start. The main role of the Gauteng government will be to be responsible for the co-ordination between the local authorities and the integration of the activities of all spheres of government within Gauteng. However, in the case of the district municipalities, the province will have to play a much stronger role to assist and develop these local authorities. A number of statutory inter-governmental bodies are already in place in Gauteng in terms of the GTFRA. These include the (political) Gauteng Transport Consultative Forum (GTCF) of the MEC as well as the (technical) Transport Co-ordination Committee (TCC) and its supporting working groups. There is no doubt that these instrument has not been utilised in the recent past the way they should have. This situation needs to be rectified. If these structures are properly utilised, as it was intended, there will be little benefit in a single TA that incorporates the three metropolitan municipalities in the province.

In Gauteng’s case a lot is being made out of the South American global city region concept and specifically of that of Sao Paulo. In Sao Paulo’s case there is no formal metropolitan (municipal) government for the larger Sao Paulo. The integrating metropolitan or regional structure in place has no legislative powers and only deals with regional services matters. The larger Sao Paulo is made up by 32 municipalities, on which the regional structure rely for service delivery. This is a very different situation to the governmental structures in Gauteng.

For some time now the province have been indicating that they want to appoint an integrated transport planning coordinator in Gauteng, whose main task will be to oversee the integration of transport planning between the municipalities and the province. This was in general supported by the municipalities in Gauteng after a long debate. This appointment is to be made in support of the still to be established proposed statutory Joint Planning Structure (JPS) for Gauteng. This structure which will be made up of senior technical representatives of the municipalities and the province are to deal with common transport planning matters on a provincial wide basis. From a transport perspective, all these structures should be sufficient to address the issues raised in the Gauteng City Region debate.

It must also be noted that a larger Gauteng metro TA will take the direct responsibility much further away from the control of local government politicians toward “provincial” politicians not responsible to any specific voters’ constituency. It must be realised and acknowledged that municipalities in general are still grappling with the new local

government system, implemented since late 2000 in the RSA. In Tshwane's case 13 municipalities were consolidated into one metropolitan municipality. To now take the transport function even further "away from the people" it is supposed to serve, may even worsen the current level of service delivery. It is unlikely that a larger TA will be able to acquire substantially more funds than a smaller TA will be able to obtain, taking the current lack of financial commitment towards the transport function into account. Overseas examples of successful TA's all have dedicated and sustainable funding streams to rely on. It is a pipe dream to think that a single TA in Gauteng will get the necessary sustainable financial support through the integrated Development Plans (IDP's) of the 3 metropolitan municipalities involved.

3.3 Functions to be performed by the TTA

The proposed functions of the TTA include compulsory, voluntary and constitutional functions. Following proper motivation, the Tshwane Council on 28 October 2004 resolved that the following functions be performed by the TTA and its Technical Executive:

- a) **Undertake integrated transport planning**
- b) **Develop land transport policy**
- c) **Undertake financial planning and management**
- d) **Manage the movement of persons and goods**
- e) **Consult the public**
- f) **Subsidise bus transport services**
- g) Evaluate land use applications
- h) Negotiate fare structures and levels
- i) Determine fare structures and levels for subsidised services
- j) Set fares for unsubsidised services
- k) Build and maintain transport infrastructure
- l) Undertake travel demand management
- m) Promote security in public transport
- n) Promote integrated ticketing systems
- o) Manage and develop the transport system
- p) Co-ordinate between law enforcement agencies
- q) Improve traffic movement
- r) Develop and maintain transport information systems
- s) Execute municipal road functions, including stormwater management systems in built-up areas
- t) Provide for publicity in connection with transport services
- u) Control service delivery
- v) Minimise the impact of transport on the environment
- w) Strategic transport related planning and the provision of land transport related infrastructure and services (including public transport) at municipal airports
- x) Plan, manage and maintain activities in municipal road and at public transport facilities on behalf of the CTMM

**COMPULSORY TA
FUNCTIONS**

Of the 24 functions, only **the first six functions as highlighted above are compulsory TA functions** in terms of the NLTTA and GTFRA. To be in line with MEC Jacobs' request, the description of function (f) (subsidise bus transport services) will have to be amended to that of subsidisation of public transport services (to include taxi services). It was generally felt that in order to properly perform the compulsory functions, the optional functions will have to be performed to a greater or lesser degree in any case. Of all the voluntary functions only those of integrated ticketing and transport information systems are not currently performed in some or other way and to some standard by Tshwane.

The level and standard at which the voluntary functions will be performed will depend on the making available of additional financial and human resources, over and above the current funding stream, to the TE. Details with respect to this issue are available in the report on the “*Investigation Regarding the Financial Affordability of a Transport Authority for the City of Tshwane Metropolitan Municipality – May 2004*”. This report also indicates a current shortfall on funding towards the to be established Transport Executive. For the 2003/04 financial year this shortfall was estimated at R111 m per annum. The taking up of additional functions by the TTA will further increase this shortfall. The estimated short fall does not make provision for removal of perceived socio economic infrastructure deficiencies or so-called backlogs. This backlog is estimated to be in the order of a further R 5bn, just for the roads and stormwater function.

Concern has been expressed with the fact that the NLTTA is silent on the issue of the powers of a transport authority. The GTFRA refers to the powers of TA’s in Section 11. However, it merely addresses the functions of TA’s. This issue will have to be addressed in future amendments to the acts. Currently both acts rely very much on the principle of co-operative governance. The reality is that the authority with access to funds is in control.

Past experience, especially through the activities of government agencies, has shown that the wishes and needs of local government and communities are often ignored. For example the development of toll roads in urban areas has happened without consultation to obtain the agreement of municipalities. These developments largely take place outside of the official statutory planning programs like the Integrated Transport and Development Plans for the specific area.

3.4 TTA Governing Body

As per Council resolution dated 28 October 2004, the Governing Body of the Tshwane Transport Authority (TTA) shall be made up of councillors of the Municipality (maximum 12 ordinary members) assigned with this responsibility by the Municipal Council together with the Member of the Mayoral Committee (MMC) responsible for the transport function as chairperson. This appointment will be made by the Executive Mayor, as is the case of the appointment of the other MMC’s. The MMC’s responsible for the City Planning, Finance and Economic Development functions, as well as the Chief Executive Officer (CEO) of the Tshwane Transport Authority will be ex officio members of the Governing Body with no voting powers. The inclusion of other MMC’s is not a legislative requirement, but is being done to facilitate functional integration. The relationship between the TTA and its TE and other structures within Tshwane is indicated in **Figure 2**.

The Governing Body will elect a deputy chairperson from among its members. For the purposes of performing its duty in terms of the transport function within the transport area, the Governing Body will have the full-delegated powers of the Mayoral Committee and the Council of the Municipality, excluding the powers as stipulated in section 60 of the Municipal Systems Act, as amended. The Governing Body may establish committees, either as standing committees or for particular tasks and periods. It is further the intention to assign each and every member with some responsibility i.e. cross - border issues, taxi matters, etc.

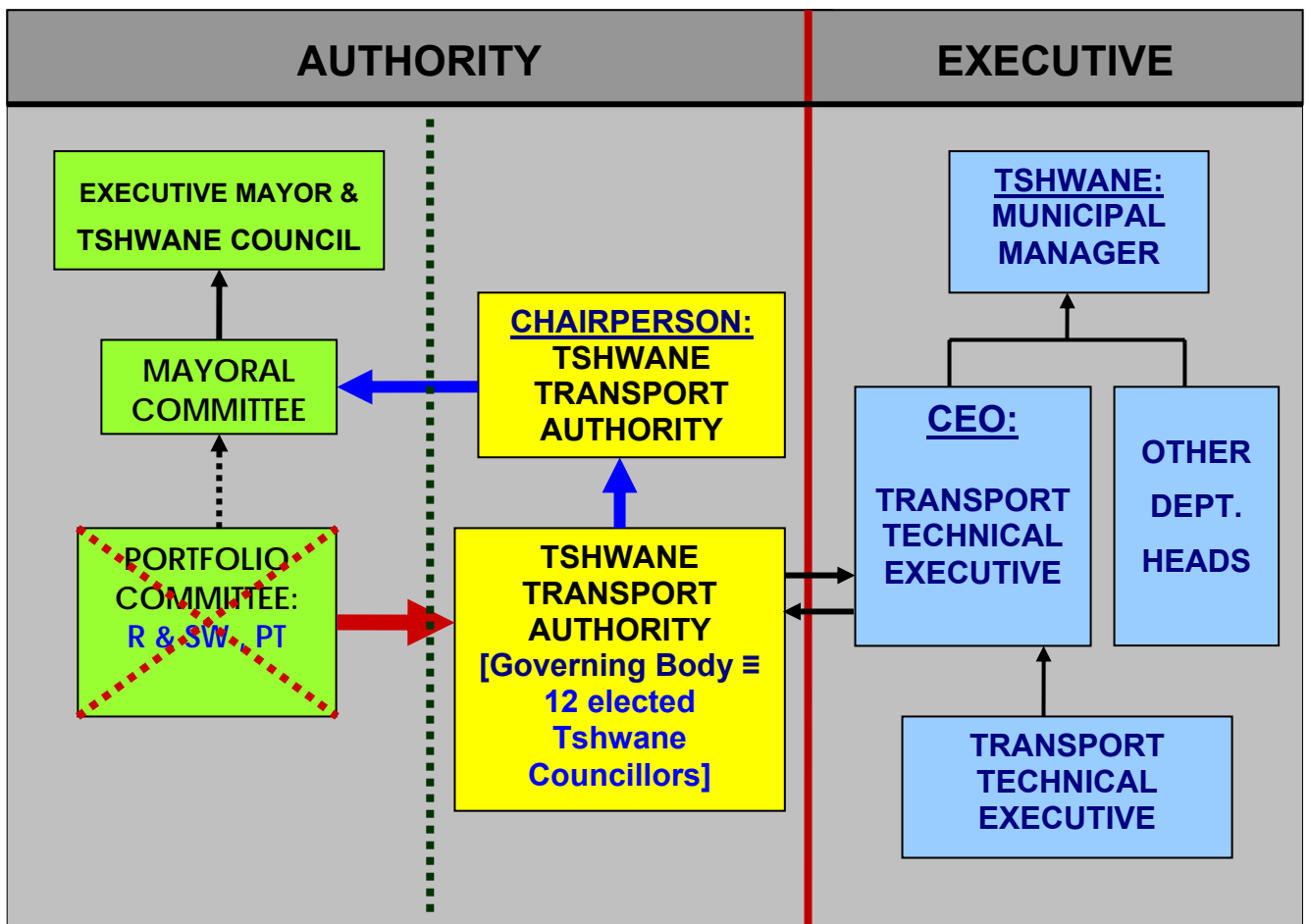


Figure 2: Relationship between the TTA and TTE

Tshwane has taken the position that the TTA will closely resemble the powers and functions of a Section 59 (portfolio) committee of Council with respect to delegated powers in terms of the transport and roads functions. It however can not be a portfolio committee of Council as it must be a separate legal entity. It will therefore in practice operate and “do its business” as if it’s a “mini” Council with the sole responsibility of the broader transport function, as it will have for all practical purposes the same status as the full Tshwane Council on transport, roads and stormwater matters.

The TTA must work in close partnership with all spheres of government and consult fully with relevant Municipal Departments, communities (including ward committees and regional council structures) and other stakeholders affected by its activities. It must respond promptly to and monitor public enquiries. The TTA and its TTE must participate in the activities of relevant political and technical Inter-Governmental Fora. These will include the South African Local Government Association (SALGA), the Gauteng Transport Consultative Forum (GTCF), the national Cities Network, the national Land Transport Coordination Committee (LTCC), the provincial Transport Coordinating Committee (TCC) as well as Joint Planning Structure (JPS) and other related and relevant bodies.

It must be noted that there is currently still a serious difference in interpretation in government circles with respect to whether or not a TA is a municipal entity or not. TA’s are established in terms of the NLTTA and in Gauteng’s case the GTFRA. A TA is an authority and not a municipal entity. This has been confirmed by legal opinions obtained by a number of cities. A TA’s main limitation is that it can not make bylaws. A recent directive where given by the Minister of Finance to the Ethekwini Metropolitan Municipality with respect to politicians (councillors) serving on the governing body of Ethekwini’s TA, as if a

TA is a municipal entity. A TE providing technical and administrative support to a TA can be regarded as a municipal entity under certain conditions. In Tshwane’s case where it’s proposed that the TE be the equivalent of a council department, it will not be a municipal entity. Greater clarity on this confusion is urgently needed between the national Department of Transport, The Department of Provincial and Local Government, the Department of Finance (Treasury) and the State Law Advisor. It may imply the amendment of the MSA, MFMA and NLTTA. More confusing is the fact that the Minister of Finance took the issue up directly with Ethekwini and not with or through the Minister of Transport, who is responsible for the national enabling legislation, the NLTTA.

3.5 Tshwane Transport Executive (TTE)

The professional, technical and administrative duties of the TTA will be performed by the to be established Tshwane Transport Executive (TTE), which will have the same status as that of a corporate department in the city administration. The Transport Executive will initially be an internal municipal service delivery mechanism. The macro structure of the TTE as approved by the Municipal Council on 25 November 2004 will serve as the basis from which the micro structure of the TTE is to be developed – See **Figure 3**.

It is proposed that the TTE contain four branches namely:

1. Integrated Transport Planning;
2. Public Transport Management;
3. Roads, Stormwater & Traffic Management; and
4. Transport Administrative Services.

A workshop to develop the micro-structure was held from 17 to 19 January 2005. It was expected that the Tshwane Council would consider the TTE macro structure by the end of April 2005, following consultation with the relevant officials, the labour unions and the relevant political structures. Tshwane’s TA Task Team targeted 1 July 2005 for the establishment of the TTA and its TE. However, in March 2005 Tshwane’s Mayoral Committee on the advice of the relevant Portfolio Committee resolved to give the finalisation of the TE structure and assistance with the appointment of the CEO of the TE to outside consultants, apparently due to perceived slow progress on the matter. It is anticipated that this action will delay the establishment of the TTA by some months.

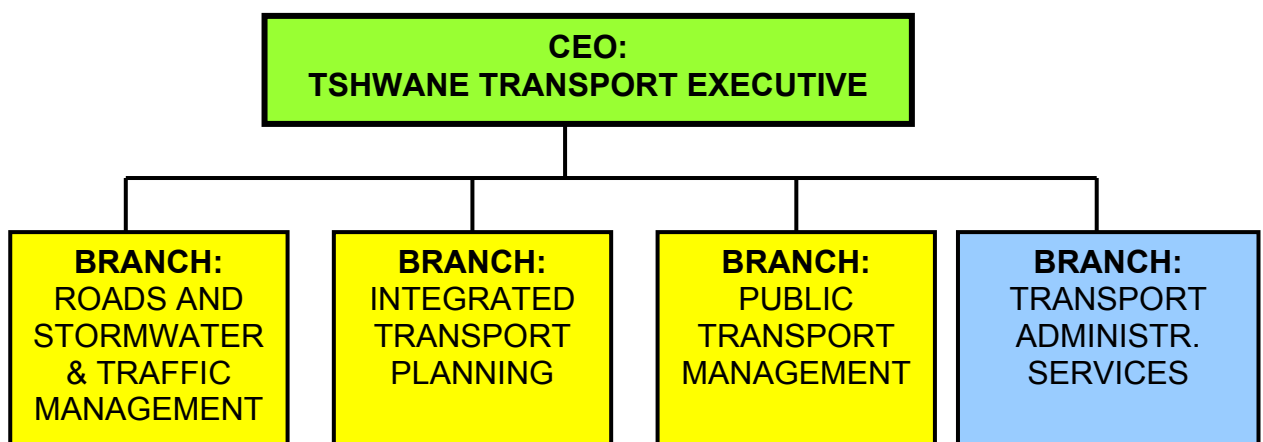


Figure 3: Tshwane Transport Executive (Macro - Structure)

Note must be taken of the fact that the Transport Executive does not include the Tshwane Transport Service, the former Pretoria City Bus Service. This is due to the fact that in terms of the NLTTA the TTA may not operate its own bus service and at the same time adjudicate tenders for other public transport services – the principle of referee and player.

The TTE will be headed by a Chief Executive Officer (CEO), who shall be employed on a full time basis on terms and conditions agreed to between the Governing Body and the Municipality. The remuneration of the CEO of the TTA shall not be more than the remuneration package of senior officials in the Municipality reporting directly to the Municipal Manager. The term of office of the CEO shall not be less than 3 years and not longer than 5 years at a time. The extension of the CEO's contract for a further period(s) may be negotiable.

It was the intention that staff from the Transport Development and Roads & Stormwater Divisions of the Municipality will migrate into the newly formed TTE by not later than 30 June 2005. The TTA could have been operational by 1 July 2005, at the start of the new municipal financial year. Work to be performed by the TTE before the new structure is fully operational, will be done by the two mentioned Divisions at the direction of the CEO of the TTE in consultation with the relevant departmental heads.

The TTE will initially be an internal municipal service delivery mechanism. Staff members of the TTE will be employed on terms and conditions applicable to the Municipality. For any changes to be effected to this situation, proper procedures will have to be followed. Before initiating investigations to such an effect the Governing Body will have to consult with and motivate such a need to the all the other parties that are party to the Founding Agreement. In developing the micro structure of the TTE due cognisance will be given to the Tshwane Council policy with respect to the development of alternative service delivery mechanisms.

The TTE must establish structures, such as user forums, for consulting and involving users of the public transport systems in the transport area, and other interested persons, in the activities of the TTE. These structures must also provide a forum for the hearing of complaints regarding service delivery. The relevant structures will inter alia include the Tshwane Metropolitan Transport Liaison Structures (Passenger Forums, Taxi Councils, Bus Committee, etc) for consultation and interaction with the community, as well as structures required in terms of the GTFRA. These structures may include a Tshwane Transport Technical Committee and a Metropolitan Transport Advisory Body or Board (MTAB) as contemplated in the Urban Transport Act (Act 78 of 1977), to advise the Governing Body on matters regarding transport in the metropolitan transport area.

3.6 Proposed Budget and Financing

The budgeting for and financing of TA's is currently the most serious omission affecting the establishment of TA's in the RSA. The establishment of Transport Authorities at the local sphere of government must be seen as another form of government implementing its policy of service delivery through the most appropriate sphere of government in terms of the constitutional principle of subsidiarity. This however does not remove the responsibility of all three spheres of government towards the financial support of Transport Authorities. It can be expected that the financing of the TTA over time will develop in a situation where national government should provide funds for public transport subsidies as well as for major capital intensive intervention projects. I believe you can get some help from Hildegard Fast for this section.

The Gauteng Province will have to provide financial assistance for the implementation of the strategic provincial public transport system as well as for major inter provincial private transport routes, including for freight corridors. The rest of the funds needed to sustain the TTA will have to be generated through local municipal taxes, as annually approved by the Tshwane Council, at the request of the Governing Body. The principle of user pay will be applied as far as practically possible, taking into account its social impact. The TTA will also have to find and develop additional sources of funding within a national transport funding framework.

In order to kick start the implementation of the TTA and its TE it was proposed that for the 2005/06 municipal financial year that funds, as indicated in Table 1 be made available from the different spheres of government to the TTA. Funds made available for the previous year are indicated in grey. It must be noted that funds related to the subsidisation of public transport services are not included in the table for the 2005/06 financial request.

The public transport subsidy money, which is currently in the order of R600m per annum, may be included in the 2006/07 financial request following successful negotiations with the Mpumalanga, North West and Gauteng Provinces. The outcome of the negotiations will be confirmed in Appendix C of the TTA Founding Agreement.

It must be noted that this request does not contain any financial contribution due to the TTA as a result of major national or provincial projects i.e. the World Soccer Cup 2010, Gautrain, etc. **It can safely be stated that that the financial sustainability of the TTA is perhaps the most concerning aspect at this point in time.** It is unlikely that this situation will improve before the enactment of the long awaiting National Land Transport Act. Unfortunately it seems that this will only take place in a number of years time.

Table 1: Funds proposed to be made available to the TTA

AUTHORITY	2005/6	2004/5
1. TSHWANE METROPOLITAN MUNICIPALITY		
• PLANNING	R 5 524 334	R 5 261 271
• OPERATIONS	R 207 446 114	R 197 567 728
• HUMAN RESOURCES	R 159 339 489	R 151 751 895
• CAPITAL	R 264 213 999	R 251 632 380
• MAINTENANCE	R 113 702 256	R 108 287 863
• OTHER (MIG, etc.)	R 28 297 500	R 26 950 000
TOTAL:	R 778 523 137	R 741 451 137
2. GAUTENG PROVINCIAL ADMINISTRATION		
• PLANNING	R 3 000 000	—
• OPERATIONS	R 2 000 000	—
• HUMAN RESOURCES	—	—
• CAPITAL	—	—
• MAINTENANCE	R 10 000 000	—
• OTHER	—	—
TOTAL:	R 15 000 000	Nil
3. NATIONAL DEPARTMENT OF TRANSPORT		
• PLANNING	—	—
• OPERATIONS	R 2 000 000	—
• HUMAN RESOURCES	R 3 000 000	—
• CAPITAL	—	—
• MAINTENANCE	—	—
• OTHER	—	—
TOTAL:	R 5 000 000	NIL
GRAND TOTAL:	R 798 523 694	R 741 451 137

3.7 Proposed Founding Agreement (FA)

A Founding Agreement (FA) has been developed by Tshwane for negotiation purposes. The gazette pro form draft FA of the (national) Department of Transport (DoT) has been used as a base document for this purpose. Ethekwini's TA FA as well as draft FA's of other members of the SA Cities Network was also considered. Substantial changes and additions were made to pro forma document to cater for a number of short comings it the document. The proposed TTA FA addresses the following elements – See **Table 2:**

TABLE 2: Tshwane TA Founding Agreement Elements

SECTION		SECTION	
1.	Definitions	12.	Annual Report
2.	Establishment of the TTA	13.	Procurement
3.	Functions of the TTA	14.	Contributions by parties
4.	Governing Body of TTA	15.	Management in general
5.	Chief Executive Officer	16.	Asset management
6.	Head office	17.	Dissolution of the TTA
7.	Tshwane Transport Executive	18.	Exit Clauses
8.	Performance management	19.	Mediation
9.	Finances of the TTA	20.	Amendment of agreement
10.	Budget and related matters	21.	Indulgences and extensions
11.	Annual Business Plan	22.	General Provisions
APPENDIX A: Tshwane Municipal Manager Authorisation			
APPENDIX B: TTA Functions			
APPENDIX C: Program: Transfer of commuter transport subsidy function			
APPENDIX D: TTE Macro structure			
APPENDIX E: Format and Structure of Annual Business Plan			
ADDENDUM: Contributions by the Parties (for annual review)			

A number of aspects addressed in the FA can only be finalised through negotiations with the provinces (Gauteng, North West and Mpumalanga) and the DoT. That is if the DoT is still serious about the establishment of TA's.

4. ISSUES AND STUMBLING BLOCKS

4.1 Slow Progress with Establishment of TA's

It is generally accepted that the NLTTA is underpinned by five inter-dependant pillars, namely:

- Integrated planning;
- Institutional structures;
- Sustainable funding;
- Regulated competition; and
- Law enforcement

The establishment of TA's is supposed to represent the formation of proper institutional structures to handle the transport function in our metropolitan areas and larger cities. This being the case, one wonders how serious government is with the implementation of the NLTTA if after almost a decade of firstly recognising the importance of proper institutional structures in the process of compiling the *White Paper on Transport* (1996), only one transport authority has been established in the RSA, namely the Ethekwini Transport Authority being responsible for the new greater Durban metropolitan area. If it was not for the fact that this TA was established as a national transport demonstration project from which others were to learn, there would not have been any TA's yet in the RSA. Even in Gauteng the newly appointed top management structure of the Public Transport, Roads and Works Department is now questioning the appropriateness of TA's as transport service delivery mechanism.

4.2 Sustainable Funding

Sustainable funding for the transport sector has been an issue for many years. When the NLTTA was drafted, one of the compromises that had to be made not to delay the legislation any further was to leave out funding instruments that would allow TA's control over sustainable funding. International experience has shown that the successful TA's of this world all have control over their own destiny through a basket of sustainable funding mechanisms. The Translink / Greater Vancouver experience is a fine example of what is possible and what can be achieved with the political support of the inhabitants. In a meeting with Mayor Doug McCullum, chairman of the Translink Board in June 2004, he singled out sustainable funding as the single most critical aspect that stands between success and failure. In our case Ethekwini's TA may be seen as "a lame duck" because of the lack of sustainable funding sources.

4.3 Gauteng Specific Issues

There are currently four issues amongst others that seem to delay the establishment of TA's in the three metropolitan municipalities In the Gauteng, namely:

- Operational subsidies for mini-bus taxis;
- Devolution of commuter (bus) subsidy function;
- Appropriateness of TA's;
- Gauteng City Region concept; and
- Political oversight over TA governing bodies.

From an official's perspective one gets the impression that the goal post is constantly being moved. Every time one "provincial issue" is getting close to being solved, a new issue is raised. Sometimes we forget that the commuter transport subsidy function is a mandatory function for a TA. The sooner TA's are being established in the metropolitan areas to deal with these issues, in a politically responsible way, the better. In the first instance local government politicians have a direct responsibility towards their electorate, something that is most definitely not the case with "provincial" politicians. Political oversight of a TA by a Portfolio Committee of Council will most definitely be counter productive and will nullify what is to be achieved through the establishment of TA's. The fact that a TA is a fully fledged local government institution (as a separate legal entity) dedicated to the transport function gets ignored in the process. Nothing prevent the proposed three metropolitan TA's in Gauteng sometime in future to join forces, if justifiable, to form a single larger metropolitan TA – when there are more maturity in metropolitan government. The rule should be: "one step at a time". In Tshwane's case the recent "jump" from thirteen local authorities to a single metropolitan authority was already a big one, resulting in service delivery that is still not in all cases up to standard. In the meantime the Province needs to fulfil its coordinating and integrating role properly.

4.4 Confusion: Authority vs. Municipal Entity

The confusion around the difference between a transport authority and a municipal entity has been described at length earlier. It has become urgent for the Ministries of Transport, Provincial and Local Government, and Finance, their departments, a number of provinces and the aspiring metropolitan TA's to meet to resolve this issue as a matter of urgency. If politicians are not allowed to serve on the governing body of TA's in the RSA, the establishment of TA's will have to fundamentally be revisited, as little if any benefit will be achieved through such a "lame duck" authority. If properly developed, the Founding Agreement for the establishment of a TA will enable the (metropolitan) municipality of a

specific transport region to establish proper control and oversight mechanisms between itself and its TA and TE. These should be aligned with the requirements of the MSA Amendment Act as well as the MFMA.

4.5 Human Resource Capacity

Another consequence or implied expectation of the implementation of the NLTTA is that well trained and experienced staff should perform the intended functions. Whether it is to do proper integrated transport planning or to do transport and not only traffic law enforcement, the issue stays the same. Very little, if anything significantly and on a sustained basis has been done since the enactment of the NLTTA to address this issue. As a matter of fact, in many cases authorities are worse off than 5 years ago in terms of human resource capacity. This is most definitely the case with respect to the transport and roads function in Tshwane. There is no reason to believe that the same is not true for the other metropolitan municipalities and cities in the RSA. We are saying that we want to improve service delivery through the establishment of TA's. To be able to do this, urgent attention should be given to acquire staff with the necessary skills, to train them over a period of time and to be able to keep them within one's organisation for a substantial period of time.

5. CONCLUSION

The CTMM has been in the process of preparing itself to establish a TA for its area of jurisdiction for a substantial period of time. This process included local and overseas study visits, capacity building and training for both councillors and officials. A motivating Business Plan and Founding Agreement for negotiating purposes have been prepared. Unfortunately stumbling blocks keep being put in the way, by both provincial and national government, preventing the finalisation and establishment of the Tshwane Transport Authority and its Technical Executive.

This leads one to start questioning the seriousness of the intentions of both the provincial and national spheres of government about the establishment of TA's in the metropolitan municipalities. In Gauteng's case the appropriateness of TA's as institutional structures is being questioned together with the possible establishment of a Gauteng City Region. At the same time the Premier of Gauteng indicated that this does not mean the end of municipalities in Gauteng.

In terms of the theme of the 2005 SA Transport Conference: *"Transport Challenges for 2010"*, implying challenges facing the transport sector with respect to the hosting of the 2010 World Soccer Cup, the authors are of the opinion that some sort of transport authority will have to be in place in at least in the metropolitan municipalities by the end of 2006 to enable FIFA, at the beginning of April 2007, to announce the host cities. To this effect we do have less than a year and a half to establish the metropolitan TA's, keeping in mind that TA's and their TE's will not be able to perform the full compliment of their powers, functions and duties from day one. It may take, for example, a year or more for a TA to fully take over the commuter bus subsidy function, which in Tshwane's case currently is the responsibility of the North West, Mpumalanga and Gauteng Provinces.

To achieve this challenge, bold and decisive political leadership is required. It was heartening to hear the Minister of Transport, Min. Jeff Radebe, speaking out strongly at the Gauteng Transport Infrastructure Summit held on 30 May 2005, for the establishment of a transport authority or transport authorities in Gauteng. To overcome the stumbling blocks mentioned in the paper, politicians and officials at all three spheres of government will

have to sit down and work out practical and implementable solutions towards the establishment of sustainable metropolitan TA's in the RSA.

Lastly, to finally attempt to answer the question put in the title of the paper on whether or not the Tshwane Transport Authority can work in practice - It can work in practice provided the TA is kept as simple and uncomplicated as possible – one TA per metro in Gauteng with the sustainable financial support from all three spheres of government as well as properly functioning inter-governmental cross-border liaison structures.

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