AREA BASED MANAGEMENT AND DEVELOPMENT PROGRAMME
ETHEKWINI MUNICIPALITY

CASE STUDY:
CRIME AND JUSTICE

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Contents

1 Introduction

1.1 The Purpose of ABM

The central purpose of the ABMD is that all development, facilitation and maintenance of services and projects run by the eThekwini municipality within a clearly defined geographical area are aligned and implemented by the required line or functional departments in an integrated manner. To this end five zones of the city were designated to be under the pervasive guidance of Area Based Management and Development teams (the ABMs), in whose areas of control fell all legitimate development efforts. The ABMs mandate was to pursue and managed all development efforts in an integrated way that was clear and mutually understood by all the key stakeholders and interest groups, including local community stakeholders. Although specific development goals are outlined in business plans and strategies it is intended that people living in the various areas defined as being part of the ABMs are the ultimate beneficiaries in terms of an enhanced lifestyle in eThekwini Municipality.

Central to the Municipality's strategic agenda and vision is for citizens to live in a safe and healthy environment. A key element towards securing a safe and healthy environment in the City centre and townships notorious for their criminal activity is to pursue a policing and crime prevention and reduction strategy. Along side the crime prevention and reduction strategy is the introduction of a justice system that is close to the sites or places of crime and the affected people in a way that is transparent, obvious and practical, as well as within physical and symbolic access to all residents in the relevant ABM areas. In short crime had to tackled, criminals taken into custody and the administration of justice had to be swift and seen to be done. The success of the physical and institutional development of the ABM areas in terms of fighting crime and visibly establishing and administering justice would then contribute significantly towards the reduction of crime. Crime from the ABM perspective is seen as an impediment to development. Its eradication or at least reduction would also simultaneously encourage socially active individuals and organisations contributing towards creating cohesive communities and responsible citizens.

In order to investigate the success that the ABMs had towards these goals and the overall objective of providing a safe and secure environment in which thriving cohesive communities can exist, the following aspects, projects, and programmes of the ABMs were investigated and assessed.

❖ Community Courts – in INK (KwaMashu) and ITrump (the Point area)
❖ Closed Circuit TV monitoring system in iTrump and KwaMashu
❖ The Crime Prevention Community Safety Initiatives in Cato Manor
  ➢ Through the Environmental Design Project (CETED)

➢ Through the Crime Mapping and Analysis Project (CMP)

1.2 Methodology

The methodology originally envisaged was that there were three key sources of data. The first was the documents and articles provided by the officials of the ABMs. The second source of data or information was to be drawn from a series of interviews with ABM officials. The third crucial source of data was from a series of focus group interviews to be conducted with community stakeholders.

This methodology, agreed to between the client and the service provider, provided a sound basis for development of the framework within which the work of the ABM, as it emerged out of an analysis of the documents and interviews, could be tested against the experiences of the beneficiaries. In short, a triangulation of different methods would yield valid and reliable data and analysis.

This methodological procedure was followed, but the time frame, once the research started and the enormity of the task undertaken was realised, was never going to be observed. As a matter of course, the officials of ABMs provided uninhibited access to documents that were requested, and presented themselves for interviews to take place. A few allowed for more than one interview. This took approximately 6 weeks, given that officials had their own work to attend to. The biggest problem that was experienced was organising focus group interviews. For this section of the work only two focus groups interviews took place.

The reasons for this are:
1. In the case of focus group interviews with informal traders, the sustained campaign against illegal and legal traders disrupted the normal everyday activities of the informal traders' leaders, and it proved very difficult to organise a focus group interview through June, July and early August. It was not even possible to set a date for a single key informant interview (as an alternative to the focus groups) with the president or deputy president of the informal traders. In essence, the eThekwini Metropolitan police activities worked against us in this instance, and disadvantaged and placed a severe constraint on the research process. When a date was set for the focus group interview, which happened more by chance than by design, the informal traders only gave us half an hour for the interview.

2. In the case of focus group interviews in Cato Manor and INK the request for telephone numbers to contact groups of relevant people had mixed results. Thus, for example, it was possible to interview the chairman of the Community Policing Forum in KwaMashu, but not possible to organise a group of people specifically on the question of safety and security. Attempts were made to phone which elicited one of three responses: the phone numbers were incorrect; the people did not answer their phones; or when they were contacted, could not meet within the time constraints that the researchers

were working with. In the case of Cato Manor one person from the Community Policing Forum agreed to meet with the researchers, but postponed, then cancelled the meeting.

3. Significant stakeholders that needed to be interviewed for the crime and justice theme were the prosecutors in the community courts. While telephone contact was made with the prosecutor of the KwaMashu Community Court, who agreed to be interviewed, the interview date kept changing due to his very demanding schedule. Although telephonic contact with the Point Community Court Prosecutor was also made, actual contact was unsuccessful.

While there are these drawbacks to the research, interviews with beneficiaries did take place, and have enriched the data base. Indeed, many support the aims and objectives of the ABMs. Notwithstanding the limitations that have been imposed on the drafting of this report, interviews with officials were very successful, even through in some cases, due to the unrelenting demands on their time, interviews were compressed into the time available. In one case, the Better Buildings Project, the information could not, at the time of writing, be included in this first draft. It would be advisable to continue to pursue obtaining the perspectives of the communities and other stakeholders in order to give a more rounded picture of the impact of the ABMs on the development processes that are underway, and to conduct follow up with specific officials on matters of clarity and detail where necessary.

In the sections below, the following projects and programmes are analysed for the role that the ABM played in their formulation and implementation, and the lessons learnt. The report follows a pattern which introduces the project or programme, outlines the context and current situation, as well as the role that the ABM played in its initial set up and current standing. This is followed as assessing the successes and failures of the ABM, the lessons to be learnt, recommendations and future role and interventions. The programmes and project that are analysed are: the Community Courts, the closed circuit TV monitoring and surveillance programme and the Community Safety Initiative.

2 Community Courts

1.3 Introduction

There has been some research and discussion around the formation of community courts since the mid-1990s (see for example Bhula, D and Africa, A, 1995). A number of issues were debated such as converting or transforming the informal community courts of the 1980s into formal courts to allow for the access and dispensing of justice. More immediate concerns with tackling petty and less serious crime, shop lifting, common assaults, robberies and associated violence, among other crimes, were considered to be of such

a nature that it could and should be dealt with at a local of community level. In other words such courts would consider criminal cases of a less than serious nature that occurred within a clearly defined area. Serious criminal cases, however, would have to be referred to other courts.

The first area in South Africa that would adopt the idea of a criminal court based within a community to serve its needs was in the suburb of Hatfield in Pretoria. It was prompted by an increasing incidence of petty crime and other criminal activities that were manifesting itself in and around the University of Pretoria, and in the surrounding areas where there are a large number of retail shops, offices, restaurants, nightclubs and liquor trading outlets. The implementation of the court had an immediate success. The immediate success of this type of court in the Hatfield suburb of Pretoria led President Mbeki to identify in his May 2004 State of the Nation Address that community courts were an important part of fighting crime and making justice accessible, and that two were to be established in each province.

The Hatfield Community Court is modelled on the USA example of courts that worked on the principle of zero-tolerance and the assumption that dealing with small crimes immediately within the area of commission would lead to less crime in general. Cleaning up the area, prosecuting all crimes, and in particular petty crimes, would make it less conducive for other crimes to be committed.

Lesson learnt from the USA indicate that the following a necessary for Community Courts to succeed. (Community Court Principle, Lue-Dugmore et al 2005)

❖ Justice must be visible and accessible
❖ Justice should be proactive
❖ Victims must be provided with quick access to services
❖ Court proceedings must not be intimidating
❖ Criminal justice agencies must be on site to provide the necessary services to both victim and perpetrator
❖ Other social services providers must be on site to work with criminal justice agencies
❖ Policing and criminal justice jurisdictional lines must not be a hindrance to court proceedings
❖ The court must be used as a gateway to treatment
❖ The court must remain involved beyond the judgement and disposition of the case
❖ As much information as possible must be made available to all participants (criminal justice agencies, social welfare NGO service providers) at the first appearance (Justice delayed, is justice denied)
❖ All problems must be identified at the first sitting
❖ Information must be up to date/current to enhance accountability

1.4 Context

1.4.1 The Hatfield Experience

The Hatfield Community Court began its work in April 2004 as a model of integrated justice in practice. The main aim of the Court is to eliminate petty crime in the area in which it is placed. In its broader context it is essential to demonstrate the accessibility and implementation of justice, and respect for law and order and human rights in a democratic society. The main objectives of the Hatfield type courts are:
❖ Access to justice by providing court services to communities
❖ Appropriate handling of certain lower court cases from the area of jurisdiction
❖ Assists in avoiding prisons becoming clogged with awaiting trail offenders
❖ Handling of all crimes, especially petty crimes
❖ Fast tracking of cases to reduce backlogs
❖ Application of restorative justice

 The Hatfield Community Court's primary attention was on the following criminal offences:
❖ Drug and alcohol abuse
❖ Offences relating to municipal by-laws
❖ Petty offences such as shoplifting and theft

The establishment of the Community Court meant the removal of these cases from the court roll of the Magistrates' Court, ensuring that cases are heard immediately and that alternative forms of justice such a community service, diversions and mediation are implemented. Several purposes are served:
❖ The criminal justice system becomes more efficient
❖ Justice is visible, accessible and applied immediately
❖ Sentencing is more appropriately handled, for example, youth are not be stigmatised with a criminal record by doing community service, or being part of a successful diversion programme
❖ The principle of restorative justice is applied.

1.4.2 Partners and Stakeholders

In addition to these purposes being served, the establishment of these community courts, so the theory goes, means that it is possible to free up more time in the Magistrates Courts to deal with the more serious crimes.

In the case of the Hatfield Court the following may be noted as the main characteristics and reasons for its initial success.

❖ The court is a public-private partnership project consisting of:
  ➢ Department of Justice
  ➢ University of Pretoria

- ➢ The National Prosecuting Authority
- ➢ Department of Social Development
- ➢ The SAPS, including the Hatfield CID
- ➢ The Tswane Metropolitan Council
- ➢ The Department of Correctional Services
- ❖ The Court is staffed by:
  - ➢ A magistrate
  - ➢ Three prosecutors
  - ➢ A Clerk of the Court
  - ➢ An interpreter
  - ➢ A Correctional Services Probation officer
  - ➢ A Social Worker
  - ➢ Two legal Aid attorneys
  - ➢ A Receptionist
  - ➢ SAPS court orderlies
- ❖ The Court deals with all district court cases
- ❖ The area of jurisdiction is one police precinct (Hatfield)
- ❖ The Court is housed in a one building

In providing an integrated justice service the following may be noted as its main characteristics:
- ❖ A dedicated full time magistrate
- ❖ An integrated government criminal justice services – prosecutor, legal aid attorneys, personnel from the Departments of Correctional Services and Social Welfare
- ❖ Restorative justice is practiced
- ❖ Access to and provision of alternative sentencing, including diversions and mediation provided by NGOs
- ❖ Cases are dealt with quickly

It should be noted that NGOs are not on the premises, but are in contact with, and act on the referrals by social workers and probation officers from the Departments of Social development and Correctional Services

The Cape and Durban experiences differ in some respects from the model established in Hatfield. Although the accessibility to justice and the principle of restorative justice are central to the work of community courts, there is also the prerequisite that these courts should reflect the local conditions prevalent in the area in which they are established. Even the Hatfield model, despite its initial successes, has undergone some changes since it first began to operate in that its area of jurisdiction has been extended putting pressure on the workload of the court, with the consequence of a backlog building-up, and that some crimes such as shoplifting do not lend themselves to 'restorative' or mediated solutions (Lue-Dugmore et, al. 2005: 13-14)

1.5 The Situation In eThekwini

1.5.1 Why Community Courts in INK and Point

Soon after the President made his announcement that there should be at least two community courts per province, a meeting was held in Durban in June attended by various role players, namely, the eThekwini Municipality (represented by the ABM), The Metro Police, the Department of Justice, the National Prosecuting Authority, the South African Police Services, the Departments of Correctional Services, Social Development and Public Works, the Legal Aid Board, the Law Society and NICRO were to establish such courts in KwaMashu and Point. At the meeting, details of the Hatfield project were discussed, as was the feasibility of such Community Courts in eThekwini. All stakeholders agreed on the necessity of such Courts. A decision was taken to establish such courts at KwaMashu and the Point in Durban. Although it was decided that all stakeholders were required to produce detailed plans and costs of creating the Community Courts, a separate meeting was held with stakeholders in INK to establish a Community Court. This is partly because of the different reasons for establishment and different population profiles in the Point and in KwaMashu.

Different reasons were advanced as to why Community Courts should be established in these two areas and not anywhere else in the Province. In the case of KwaMashu the police statistics showed it to be one of the most crime ridden areas in the country, and attending to petty crime in this area would greatly assist in the prevention crime. At the same time it would demonstrate to the citizens of the INK area the accessibility to, and practice of justice. KwaMashu is a densely populated residential township of low economic activity with an inadequate physical infrastructure. Although it experienced high levels of political activity in the 1980s and 1990s, it was also a township that had become notorious for criminal activity. In 2001 it was identified as one of five different Presidential Urban Renewal Nodes under the Urban Renewal Programme (URP) in the country. A project that focussed on crime and justice would fit in well with other development projects currently being piloted by the INK Area Based Management team to enhance a safer built environment. The Community Courts would also enable the SAPS to focus attention on serious crime if the petty crimes could be disposed of quickly. A safer environment, it was argued would enable faster and better development and investment. Because of the importance attached to the project by the eThekwini Municipality, the INK ABM, undertook to chair the plenary committee planning meetings, and assist and facilitate in implementing the project.

The Point Road area was undergoing rapid development in terms of urban regeneration and upgrading. It was also being developed as a premier tourist attraction with a high transient population. The area is prone to criminal activity such as drug dealing, theft of and out of vehicles, robberies and

offences relating to drugs and alcohol abuse, which can be a serious deterrent to attracting tourists. The eThekwini municipality, as represented by the iTrump ABM, stated that they were 'very much in favour of the project. It will generate more confidence in the Justice System and upgrade the Point development area" (Feasibility Report, 2004)

1.5.2 The Preparations

An enormous amount of preparation has gone into the creation and establishment of the two Community Courts. Although the President stated in his address that there would be two Community Courts in each province and that financial resources would be provided, the actual preparations involved far more than simply implementing an instruction. There were a number of issues and problems that needed to be resolved before the planning phase, during planning and implementation and post-implementation. These may be listed as follows:

* Co-ordination of different stakeholders and implementation
* The question of jurisdiction
* The type and classification of Court sand relationship to other courts.
* Memoranda of understanding among stakeholders.
* Provision of facilities

1.5.3 Co-ordination and the Role of the ABMs

The Community Court concept requires an integrated co-operative approach while acknowledging the specificities of the localities and uniqueness of areas in which such Courts would operate. For example, the Point Community Court is located in a high density area with tourist attractions and a transient population, while the KwaMashu Community Court is located in a township with very high levels of violent crime (second/third highest in the country).

The initial group of stakeholders for the establishment of the Point community court are as follows:
* The SAPS at the Point Police Precinct
* The Magistrates
* The Prosecutors
* The eThekwini Municipality (The ABM represented the Municipality)
* The Legal Aid Board
* The Department of Correctional Services
* The Department of Social Development
* The Metro Police
* The Metro Rail
* The Department of Public Works
* The Law Society
* NICRO.

Other organisations that also joined this initial list of stakeholders for their own specific reasons and to provide services are Business Against Crime (BAC), Life Line and Khulisa.

NICRO and Khulisa Offices, and Public Waiting Rooms
at Community Court, KwaMashu, October 2007.

(Photo: S. Vawda)

Except for the Law Society, NICRO, BAC, Life Line and Khulisa all these organisations are agencies of the state or representatives of government. All these agencies of the state are committed to providing an equitable and accessible justice system, but each one of them has their policies and strategies they wish to pursue, which are not necessarily compatible with an integrated developmental approach envisaged in the Hatfield model. To implement a new kind or type of court requires the stakeholders to change a particular organisational mode of thinking and working. It was very apparent from the start that left to their own devices these organisations were unlikely to pool their resources, and move in a single direction. For example, it was agreed that the police precinct premises would ideally serve the purposes of the setting up the Court. However identifying resources for the physical structure of the Community Court meant, from the SAPS perspective, working with the Department of Public Works. The Municipality on the other hand had its own procedures, while the functioning of any court required the permission from the national justice department. The physical resources such as furniture and equipment, as well as human resources also had to be identified. While planning and drawing up lists of required resources and physical assets was in itself not difficult, identifying which government department was responsible for different aspects of those resources and who would take responsibility for their acquisition was a matter of some debate. While all stakeholders agreed in principle to the concept of a Community Court, and with tight deadlines as set by the President, it became imperative that a neutral body with the necessary skills needed to pull all the stakeholders together be found, and tasked with facilitating their different roles and perspectives towards the single objective of establishing the Community Court, and project managing its implementation. That task fell to the Area Based Management team as they did not have formal links to any organisation, and were an independent body within the Municipality with a mandate to facilitate and promote an integrated approach to development in the City. In this task, the ABMs succeeded in getting the main players in this process to focus on the task. The Point Community Court started on 2 Dec 2004, followed a few months later by the KwaMashu Community Court in March 2005.

1.5.4 The Question of Jurisdiction

In the Hatfield model the crimes that were put on the Court's roll came from a clearly defined area. Only crimes and offences committed within the boundaries of the Hatfield SAPS area of operations were brought before the Court. When the boundaries were later extended, the increase in the number of criminals and offenders apprehended contributed to a rise in backlogs on the Court roll. This did become an issue in the Point Community Court system as the Point Police's area of jurisdiction ends at West Street, and does not extend along the beachfront towards the Blue Lagoon thus dissecting the beach front area. The areas north of West Street fall under the SAPS stationed at Central Police precinct in Somptsu Road. The beachfront is a planned contiguous tourist recreation and leisure zone, along which number of muggings of tourists, bag snatching, shop lifting, assaults and other petty crimes take place. As the Community Court's raison d'etre is to process offenders and criminals within hours of their being apprehended, any thing that contributes to holding back this process needs to be taken seriously. The question of jurisdiction is thus of some importance to resolve. It becomes complicated by the different enforcement agencies that operate in the beachfront and Point areas, such as the Metro Rail police, the Beach patrols, the SAPS and the eThekwini Municipality. For example, use of a SAPS vehicle for a joint raid on the property of Metro Rail by the different enforcement agencies was denied. While there is an agreement that all enforcement agencies may bring offenders and criminals to the Community Court, this is not at an optimum level. Clearly, much mediation is required and agreements need to be reached by the different enforcement agencies on how to operate effectively in a tourist and high population density zone. This was not a major issue for KwaMashu, although cases did appear on the court roll from Inanda.

1.5.5 The type and Classification of Community Courts

In the Hatfield model, the Court is a district level type of court. The question has been raised whether the Community Court is a new or special type of court. Is it a district court, or does it have is own special niche within the justice system? Answers to these questions are important because they determine where personnel resources are to come from, the type of crimes that the Courts can try, or deal with, and the types of sentencing the Courts may dispense. They also determine the type of relationship they have with other courts and with the major stakeholders that work together in making the Courts work. Without a memorandum of understanding as concept, aim and objectives as well as the areas of responsibility to make the Courts function it is possible that they could become dysfunctional. Although there are Community Courts now operating in the main urban centres as part of the District Court system, the classification and relationship to other courts and stakeholders will have to be addressed.

1.5.6 Memoranda of Understanding

Written agreements to work together or memoranda of understanding (MOU) have been signed by the major stakeholders. However, the Justice Department refused to sign such a Memorandum of Understanding on the grounds that to do so would amount to an endorsement of a new type of specialised Court which it has not thoroughly researched. The Department of Justice had not determined the value and usefulness of Community Courts within the justice system. It is the view of the ABMs that an MOU is crucial to ensure the commitment to setting up the Community Court, and for their continued functioning (at the very least in the initial period).

1.5.7 Facilities and Agreements to Provide Services

Both Community Courts were placed within the respective SAPS precincts. Although detailed site plans of the proposed KwaMashu and Point Road Community Courts were drawn up, both Courts had to use temporary structures such as the Park Homes and Wendy Houses as part of the start-up of these courts. The temporary facilities are still being used.

Other costs and resources such as personnel, furniture, equipment and stationery were also drawn up. These were supplied in varying degrees by stakeholders, and supplying agencies such as the Department of Public Works. The ABM made up short falls, or made representation, on behalf of the Community Court stakeholders to organisations such a Business Against Crime to supply equipment such as fax machines.

The Department of Justice, for example, undertook to provide the Magistrate, prosecutors, and a clerk of the court, in addition to air conditioning, witness fees, stationery, tape recorders and a telephone line. The Department of Social Development provided the social workers, the South African Police Services a site for the Court, the Park Homes for additional offices, the Court orderlies and holding cells, and the Legal Aid board the attorney to represent alleged perpetrators. Non-governmental organisations such as NICRO, Life Line and Khulisa were there to offer services related to diversion programmes and community services.

The ABM's in INK and the central business district coordinated these activities together with requests for furniture, photocopying and machine fax machines and the facilitating and coordination of activities related to providing the Municipal Departments (Parks and Recreation, Durban Solid Waste) so that community services sentences to be carried out, such as clearing bush and overgrown shrubs (Notes of KwaMashu Community Court Meetings, 18/02/05, Letter to Area Project Manager INK ABM22, 22/02/04), and additional staff to carry out administrative and data inputting services (Letter from Prosecutor, S. Panday to Mr R Dobson, 8 March 2004). These requests were granted to the ABM, with the assent of the eThekwini Municipality. The iTrump also facilitated meetings with the local businesses through Business Against Crime which provided a fax machine to the Point Community Court. Local businesses in KwaMashu were unable to support in kind or funds

towards the Community Court due to the fact that many were start up or survivalist enterprises.

The temporary Parks Home's office of Community Court Prosecutors and staff of the Departments of Correctional Services and Social Development

(Photo: S. Vawda)

It is hoped that the plans for a more permanent physical structure with all the necessary offices and services will come to fruition shortly, and that the relationship between community development and the delivery of justice in which the ABM has played a central role can be more effective.

1.6 The INK ABM and Kwamashu Community Court

1.6.1 Analysis of Functioning of Community Courts

The kind of Community Court structure and the start-up resources required, as well as the continued roll out to sustain the Court had already been prefigured by the Hatfield experiment, and are outlined above for both the Kwa Mashu and Point Community Courts. Although different government departments provided the personnel, resources, the site for the community court, and the support services, the eThekwini Municipality undertook the task of chairing the meetings of the Plenary Committee meetings, and played a coordinating and facilitative role in ensuring that the project was successfully launched. Throughout the planning and implementation phases leading up to the launch of the Community Courts the eThekwini Municipality, through the ABMD, continued to play an important role in facilitating the continued roll out of the Community Courts to ensure that the Community Courts started and continued in spite of moments when it looked as if they might grind to a halt due to lack of facilities, resources or personnel

Magistrate's Office and Community Court Room, KwaMashu, October 2007

(Photo. S.Vawda)

The KwaMashu Community Court held its first session in March 2005. A great deal of preparations, facilitation of stakeholders, and the introduction of new ways of policing, prosecuting and mobilisation of resources had to be evolved.

1.6.2 Prologue

The prologue to the Community Courts project in Kwa Mashu has been described in the following way:
❖ To identify all stakeholders
❖ To determine the site of the court
❖ To compile comprehensive resource schedules based on needs:

- ➢ Human resource schedule
- ➢ Infrastructure Resource schedule
- ➢ Equipment Resource Schedule
- ❖ To set target dates for the achievement of implementation for the following:
  - ➢ Document and memorandum of understanding between role players for establishment and settling or operation procedures
  - ➢ For sourcing resources listed in schedules mentioned [above]
  - ➢ Commitment of court
- ❖ To Identify offences to be dealt with
- ❖ To aggressively market the concept in the area of its operation

Current Staff Complement

a. Court Staff
- ❖ Magistrate
- ❖ Prosecutor/s
- ❖ Administration Clerk
- ❖ Interpreter
- ❖ Security/Court Orderlies
- ❖
b. Associated Staff
- ❖ Legal Aid Attorney
- ❖ Social Development Social Worker
- ❖ Probation officer
- ❖ NICRO social worker
- ❖ Khulisa social worker

c. Other Service Providers
- ❖ Durban Solid Waste
- ❖ Parks and Recreation

1.6.3 Types of Cases

Without a full annual set of data on the types of offences and the outcomes of prosecutions it is difficult to make a detailed analysis of the cases and what the implications for the community and crime levels are. However, the researchers were able to find data for a selected number of months at different times of the years 2005 and 2006.

Kwa Mashu Community Court*

Classification of Outcome	April '05	%	Sept '05	%	Feb '06	%	July '06	%
Withdrawals	13	2.9	27	7.3	31	15.5	48	13.9
Diversion	26	5.7	39	10.4	45	22.5	84	24.3
Warrant	12	2.6	79	21.2	28	14	38	11

Issued							
Case Transferred	9	**1.9**	6	**1.6**	24	**12**	60	**17.4**
Other	81	**17.8**	0	**0**	9	**4.5**	6	**1.7**
Guilty	284	**62.5**	197	**52.9**	62	**31**	89	**25.8**
Not guilty	0	**0**	0	**0**	0	**0**	2	**0.6**
Community service	29	**6.3**	24	**6.5**	1	**0.5**	18	**5.2**
Total	454	**100**	372	**100**	200	**100**	345	**100**

* Based on data that was available at the time of writing.

A number of points can be made with regard to the data in the table above:
❖ Cases brought to the Community Courts all depend on the police work of the SAPS, the Metro Rail police and the eThekwini Metro police. As will be commented on later, the SAPS are the main law enforcement agency that apprehends offenders and /or criminals and brings them to the Community Court. The SAPS and Metro Rail have provided most cases thus far to the Community Courts.
❖ Except for July 2006, all cases brought before the Community Court were concluded with a guilty verdict.
❖ The percentage of diversions, in terms of the principles of restorative justice has consistently increased over the April 2005 to July 2006 period. This has been an enormous success.
❖ Community service as a sentence of the Community Court has not increased. In fact there is a slight decrease over the April 2005 to July 2006 period.

The above analysis of the statistics has important implications for meeting the following objectives of the Community Courts:
❖ Addressing crime
❖ The access and delivery of justice
❖ Urban decay/restoration/re-generation
❖ Young offenders and restorative justice

Each of these objectives is commented on below in relation to the role that ABM has played and can continue to play.

1.6.4 The Role of the INK ABM

1.6.4.1 Addressing Crime – A Solution to a Particular Kind of Crime

An average of 343 cases are on the court roll every month. The Community Court in Kwa Mashu, from this point of view, is operating very well in that it successfully prosecutes offenders. For those that can be rehabilitated and diverted from engaging in crime, there are programmes into which they can be inducted without incurring a criminal record. Diversionary programmes are

particularly aimed at the youth offenders, particularly those involved in petty crime, and drug/alcohol abuse and related offences.

According to the INK Community Policing Forum chairman, there is now less visible drinking in public and a reduction in hijackings. This contention is supported by the ABM Social Development Manager. From observations of the research team, there does seem to be a less tense and apprehensive atmosphere with regard to crime than in pervious years. However, it is suggested that this will have to be tested against police records of criminal incidents, the court roll of offences committed and the outcomes of those court hearings.

1.6.4.2 Access and Delivery of Justice

The site of the Community Court within the precinct of the SAPS and the offices of the Area Based Management offices is easily accessible from all the INK townships. What is important, however, is that those that are charged with the criminal offences within the purview of the Community Court, are quickly assessed by the prosecutor and a decision taken to pursue criminal charges, and sentences are handed out before the end of the day. The demonstration of the access and delivery of justice by the state within a township that has been plagued by criminality is a major gain for the establishment of the rule of law. It should be noted that the access and delivery of justice depends on an infrastructure and personnel that makes it possible. In this regard the ABM management has played a crucial role in facilitating and managing the launch of the Community Courts. The ABM still plays a central role in co-ordinating the necessary meetings which brings all the stakeholders together to assess their progress and identify weaknesses and short comings that need to be rectified. Without these meetings the continued presence of the Community Court and the enthusiasm for the project expressed by the Magistrate, the prosecutors and the other service providers would probably have waned and regressed to merely fulfilling a bureaucratic function.

1.6.4.3 Urban Decay/Restoration/Regeneration

The Community Service sentencing is having the desired effect. Once the long grass has been cut, people see the benefits of taking pride in their surroundings. Regularly cutting long grass and shrubs prevents criminals using these sites as hideouts. However, it seems more institutional responses are required, such as from old age homes and other welfare organisations, educational institutions, businesses centres or NGOS working in the area, to make the Community Services programme more viable, interesting and challenging. In this way community service as part of restorative justice concept can more meaningfully arrest urban decay and contribute to urban regeneration.

1.6.4.4 Youth Offenders and Restorative Justice

The diversion programmes show that it is becoming increasingly important. As a 'sentence' of the court is has the advantage of not punishing the first time offenders with a life long sentence, reduces the waiting trial cases at magistrates courts, and gives the youth the opportunity not to engage in crime or have a criminal record. To have a criminal record would immediately place employment prospects at risk.

While the Community Court in KwaMashu has taken the pressure off the other courts that deal with more serious crime, it is debatable whether this has reduced crime in KwaMashu, or in the INK area in general. However, as has been pointed out by many of those we interviewed, it is not so much that crime has dropped or not, but that there is a growing respect for the law, and more importantly, a sense of social cohesion developing. The INK ABM, together with its partners, the SAPS, the magistrate and prosecutors, the NGOS and the Community Policing Forum, has begun to inform the community of KwaMashu of the work of the Court through community meetings and issuing of pamphlets. More people have begun to appreciate the rule of law and see that justice is accessible, delivered and practiced. It is recognised that much more needs to be done to popularise the working of the Community Court.

The Court's accessibility is enhanced by the fact that it is within the SAPS precinct, and is easily accessible by public transport from all areas of KwaMashu, as well as Inanda and Ntuzuma. Community service, as a sentence of the Court, is designed not to alienate the youth or the offender from his/her family and community. This may be a difficult concept for victims to understand, or indeed for many people in Kwa Mashu who have been the victims of seemingly unbridled criminal activity for decades. But the idea of restorative justice where victim and offender can be reconciled through undertaking community work, or be involved in diversionary programmes has begun to impact in the specific areas in which these programmes have been carried out. In this regard, it is somewhat surprising that the contract of Khulisa has not been extended by the Department of Social Development. It is perhaps an issue that the INK ABM should take up strongly. It should use its considerable ability at facilitation and power of persuasion to have the contracts of service providers such as Khulisa uncompromised in relation to the work of the Court. Also service providers should be regularly monitored and evaluated to maintain what appears to be a growing essential service, along side the urban regeneration programme that is being undertaken by the INK ABM.

1.7 The Point Community Court and the Role of the ITRUMP ABM.

1.7.1 Prologue

As with the KwaMashu community court, the first challenge was to secure the personnel and necessary infrastructure for the Point community court to function effectively.

a. Court Staff
The original required staff complement was as follows:
- ❖ 1 Magistrate
- ❖ 2 Prosecutors
- ❖ 1 administrative Clerk
- ❖ 1 Interpreter
- ❖ 1 security officer/court orderly

b. Associated Staff
- ❖ Department of Correctional Services – social worker and probation offices
- ❖ SAPS Liaison officer
- ❖ Legal Aid Attorney

c. Other service providers
- ❖ Life Line
- ❖ NICRO

1.7.2 Types of Cases

1.7.2.1 Brief Analysis of the Court Statistics

The Point Community Court reported court statistics and progress in a different way and is therefore not directly comparable to the KwaMashu Community Court. The most common types of crimes brought before the Point Community court are: robbery, theft, assault, GBH, crimen injuria, possession of dagga, drinking in public, urinating in public, drunken driving, causing a disturbance, metro rail offences, illegal liquor sales, possession of dangerous weapons and implements and loitering.

Table 2 Point Community Court Statistics 2005*

	Feb		Mar		Apr		May		Jun		Jul		Aug		Sept		Dec		Totals
New Matters	204		307		457		372		419		499		437		288		340		3323
Finalised Matters	111		231		362		238		314		422		321		199		273		2471
Outstanding roll	92		83		92		148		145		102		135		103		161		1061
% disposed/incoming	54		75		79		63		75		85		76		69		80		74
Diversions	6	5.4	16	6.9	21	5.8	22	9.2	30	9.6	9	2.1	22	6.9	20	10.1	3	1.1	149
Community Sentence	47	42.3	35	15.2	0	0.0	17	7.1	23	7.3	17	4.0	17	5.3	12	6.0	1	0.4	169
Court Hours (daily average)	3.49		4.03		5.06		5.45		5.38		6.04		6.04		6.11		6.19		

*Table based on available statistics at the time of writing. Data for 2006 was insufficient to be included.

Table 3. The following table reflects the type of offences and number of criminal acts in July 2005

Offence	No.	Offence	No.
Robbery	1	Urinating	12
Theft	11	Drunken driving	5
S36	1	Disturbance	4
MITP	2	Metro Rail	261
Assault	3	Dealing in liquor	3
Grievous Bodily Harm	2	Reckless/negligence	0
Crimen Injuria	0	Dangerous Implements	0
Dagga	20	Dangerous Weapons	15
Drinking in Public	14	Loitering	54

The following points may be noted in relation to the table 2.

❖ The number of cases on the roll is increasing, with an average of 275 cases being finalised per month. It should be noted that from February to July there is an increase of up to 422 cases being finalised, and then there is drop.

❖ The number of cases brought to the court reflects the work of the different law enforcement agencies working in the Point area, namely, the SAPS, the eThekwini Metro Police, the Metro rail police, the Baywatch and Beach Patrols.

❖ The increasing number of cases being finalised is reflected in the average number of court hours being worked daily.

❖ Community service and diversions do play a role in sentencing. Although diversions are not part of the official court sentencing, they amount to 6% of total finalised matters. Community service is 7%. A total of 13% of court matters are part of alternative sentencing. However, the month to month percentages (as a proportion of finalised matters) varies considerably. Although this may be related to the immediate questions of the administration of justice in the court, it does bring into sharp focus the environment in which crime or petty offences are committed. Investigation into this link would appear to be reasonable and worth exploring in terms of crime prevention in terms of environmental design.

The reports made at the monthly meetings of the co-ordinating committee of stakeholders consistently raise the issue of the lack of sufficient personnel such as an additional prosecutor, or the need for an additional community court to deal with the spill over from other police precincts

It has not been possible to correlate the offences committed with the sentencing at the Community Court including the diversions and community sentences on a month by month basis. If the statistics were available and accessible it would be possible to make a more accurate and reliable assessment of the impact of the Community Court.

1.7.3 The Role of the ABM

1.7.3.1 Are the Objectives of the Community Courts Being Met?

The above analysis of the statistics has important implications for the following:
❖ Addressing crime
❖ The access and delivery of justice
❖ Urban decay/restoration/re-generation
❖ Young offenders and restorative justice

Each of these aspects is commented on below in relation to the role that ABM has played and can continue to play.

1.7.3.2 Addressing Crime

It is very clear that the Community Court is addressing the issue of crime in the Point precinct. The Court finalises an average of 275 matters per month, but with an ever increasing backlog due to the renewed enthusiasm of some law enforcement agencies, particularly the SAPS and Metro Rail (See reports of the Point Updater) who see their police work bearing fruit in so far as there is a high conviction or alternative sentencing for the arrested perpetrators of crime. However, the backlog does raise the question of the ability to cope within the limits of the resources available. This an issue that has, and continually needs to actively considered by the stakeholders forum. Some ideas regarding resolution of this specific problem have been mentioned in the stakeholder meetings such as working closely with the soon to be established Municipal Courts, the court sitting for 24 hours, and creating new courts, possibly at the magistrate's court building in Somseu Road, or elsewhere in the city such as in the inner city or on the Berea. While these options have been debated in the stake holder's forums with some initial investigation into its feasibility, there appears to be some resistance from the Department of Justice to the idea of a proliferation of special courts. The reaction of the Department of Justice raises two related issues. The first is whether the Community Courts is the only solution to addressing crime, and secondly, if the system is successful, does this not assist in entrenching the idea, or right to access and delivery of justice. On the first issue there are proposals by the ABM safety and security department to broaden the idea of fighting crime through use of new technology within an environmental context that reinforces the need for close cooperation and integration of different strategies among stakeholders, Municipal departments and the other spheres of government. This will be addressed in another section/part/chapter of this report. The second issue of access and delivery of justice is discussed below.

1.7.3.3 The Access and Delivery of Justice

The same positive direction that the Kwa Mashu Community court has, may be said of the Point Community Court. Physical access to the Courts is not a challenge. However the access and delivery of justice does not lie only with physical proximity but also with the administration of justice. Large numbers of offenders and criminals pass through the court. This is clearly evidenced by the increasing numbers of cases that have to be processed for fines, mediation, diversion or community sentences taking place. The expansion of the notion of restorative justice was implicitly recognised by the Court prosecutors when they requested at the stakeholders meeting for an expansion of a skills development programme to include prostitutes. The request was made in the full knowledge that this is only one workable solution to loitering and prostitution on the streets in that it provides an alternative for the women, especially those under the age of

20 years. Also in recent times mediation between victim and perpetrator has been introduced with the assistance of the ABM social development department.

1.7.3.4 Urban Decay/Restoration/Re-Generation

A few months after the court was set up, one of the first acts of the officials of the Community Court (magistrate, prosecutors and members of the stakeholder's forum, including ABM officials) was to tour the areas so as to get first hand experience and insight as to what is happening in the areas for which they are responsible. ABM officials provided a guided tour. Officials visited derelict buildings, shelters, observed formal and informal liquor outlets and generally observed the transient population at the time.

1.7.3.5 Young Offenders and Restorative Justice

It is very clear from the data that restorative justice will apply, particularly with young children/ the youth. There are service providers such as NICRO and Life Line who work in close conjunction with the prosecutor, and the Departments of Correctional Services and Social Development to ensure, or at least limit the chances of those convicted returning to a life of crime. In this way, they as the youth get a second chance. It is hoped that they survive, and preferably do not incur a criminal record.

1.8   Assessing ABM Successes and Failures

❖ The success of the Community Courts, as measured by the numbers of convictions and individuals committed to the diversion/restorative justice programmes is one of the success stories of the ABMs.
❖ Given that the number of stakeholders involved in the set-up and initial implementation of the Community Court is considerably more than one would expect at first glance, the role played by the ABM as neutral facilitator and project manager is an enormous and significant success. Having to project manage the multiple processes of different Government departments and demands and succeed in having such a Court up and running within one year is testimony to the participative and integrative approach of ABMs.
❖ Clearly, it was also a sharp learning curve for the ABMs having to deal with multiple processes and procedures of different national, provincial and local governments, as well as external service providers. This is an example of the facilitative role played by the ABMs in pushing forward in a positive way the boundaries of co-operative governance.
❖ Having setup and seen through the initial phase of the Community Courts, the ABMs might have stepped back a little from what is essentially the Justice and Safety and Security Ministries programme. However, its continued involvement in the diversion and social development aspects of the

Community Court programme signals that it continues to have a significant and relevant interest. Given that the diversion programmes are needed in the communities it should use its considerable skills at influencing funders and other stakeholders to ensure that these programmes are not halted through lack of resources. It also ensure that legitimate external service providers such as Khulisa and NICRO are not seen a competitors but as components of a long term project to change the way young offenders are dealt with, principally to avoid being unintentionally 'entrapped' in the Criminal Justice and Correctional Services systems and possibly risking and leading to crime as a way of life.

❖ What are the reasons why the Durban Metro Police's contribution to the Community Courts is less than sufficient, as is dealing with the lack of their involvement in fighting crime? Is there a jurisdiction problem? There is less than the desired level of collaboration.

1.9 Lessons Learned

Agreement to a vision, i.e. a Community Court, from among a diverse group of organisations and individuals, does not in itself guarantee success. A considerable amount of skill, knowledge (facilitative, project management, knowledge and networks of movers and shakers) and patience is required to bring about unity of purpose without losing focus on the importance of the project.

As a development project, the influence of the Courts is much wider than simply the administration of justice in a specific area – it has to do with building respect for the law, and trusting the ability of the policing agencies

1.10 Recommendations for a Realignment of Interventions

❖ It is an opportune moment for the ABM, with the Justice Department to undertake a through evaluation of the Community Courts.
❖ An evaluation of police work, particularly that of the Metro police, in relation to the Community Courts is needed
❖ A awareness campaign to make the work and functioning of the community court known id required
❖ Strengthen the community service and diversions programmes, and include a monitoring and evaluation mechanism.
❖ Investigate the reasons why the Metro Police have a lukewarm reception and less than enthusiastic desire to apprehend and bring offenders to the Community Court.

- ❖ Crime mapping exercises' need to be integrated into policing and criminal justice system (See Cato Manor crime mapping for the use and value of detailed analysis of crime statistics and identification of crime hot spots)
- ❖ The Crime Prevention through Environmental Design strategy needs to be integrated into the overall development programme of the ABMs in the INK area.

While Community Courts perform a vital function in dealing with certain categories of crime, bringing the administration of justice closer to people and instilling a respect for the law in a modernising developing society, there are other prevention strategies that the ABMs have been involved in. These are the surveillance and monitoring functions of closed circuit TV and Community Safety Initiatives. These are analysed below.

3 Closed Circuit TV Surveillance and Monitoring

1.11 Introduction

The case study about the Closed Circuit Television System (CCTV) project as part of the ABMs initiative is described, firstly, in the context of its initial design and purpose as a traffic monitoring (including emergency services) and crime surveillance tool, and secondly, as a tool for urban management, renewal, monitoring and maintenance. It is this multipurpose usage that places the ABM at the centre of initiatives to see it as a technical and conceptual tool with wider application to tackle the several goals of surveillance and monitoring of traffic and crime, as a means of an securing a safe environment for people to pursue their daily lives, and the continuous repair, maintenance and upgrading of public buildings and spaces. Some of the purposes of the CCTV, such a traffic and crime monitoring have been tested, especially with regard to crime prevention. (The evaluation of the data and its graphical representation received as part of crime prevention strategies will be analysed in the section on Community Safety Initiatives). There is currently a debate on the issue of why and how should the system of CCTV monitors be used in eThekwini municipality in terms of the urban renewal, maintenance and upgrading of public spaces. People interviewed for this case study are from the iTRUMP ABM office as well as representatives from the eThekwini traffic and development planning departments.

1.12 Context

The CCTV project in Durban was a unique system as it was the first in the country when it was initiated as part of the 1975 CCTV traffic control system. Although it was initially designed and installed to meet the requirements of traffic monitoring, it was expanded to include use by crime surveillance in 1995 (but only became operational later) as well as by emergency services in traffic related incidents. These cameras expanded from traffic monitoring to crime surveillance due to their advanced features such as the excellent long distance and night vision and a high resolution. However, it required high masts or tall poles upon which the cameras sat, and which were often criticized as not the most aesthetic for a city that prides itself as the main domestic tourist city in South Africa. Nevertheless the city council was determined to roll them out. Although the technology existed for its wider uses, the cameras were only used for crime surveillance as of 2000. It should be noted that crime surveillance should not imply crime prevention. The cameras' technological capabilities became very apparent to the ABM iTRUMP team. The extraordinary potential to use them for monitoring the built environment, particularly the public spaces of the inner city was easily understood and appreciated by the ABM managers. The debate about their multiple uses has been extended to issues about the location of cameras, the need to be placed in positions to gain maximum benefits for the management of the city, particularly with regard to the built environment. This inevitably involved different agencies and departments of the city lobbying the city council for their particular perspective. In addition, the eThekwini municipality has a huge fibre optic layout reaching from south as far as Umlazi and west up to Pinetown, and north as far as Umhlanga which places greater emphasis on the potential to be used for more than simply traffic and crime monitoring. Attempts are being made to unify all these different perspectives into a holistic application of the extensive current CCTV network and to build on that basis by introducing new cameras and technology in other areas to meet multiple surveillance and urban management objectives.

According to stakeholder interviews and a documentation review in 2000 there were about seventy one cameras with two control centers at Metro Police Services and Traffic Transportation headquarters. The main areas of surveillance were the CBD, the ICC and the Beachfront/Point Road area. Outside the city centre cameras have been installed in the South Durban Basin and the Pinetown CBD, and at the Spaghetti Junction and Gateway traffic intersections. Cameras are to be installed in the INK area, although the high masts on which they are fixed have been in place for some time (which, curiously, acted as a crime deterrent for some time).

The CCTV system requires a constant change in hardware and software upgrades. Although upgrades have been made where necessary, the Metro Police in 2003/2004 started upgrading the CCTV camera system as a whole, and as of 2004 a newly established central control room housed at Loss Control in

the city's security department. Apart from software upgrades, a change in hardware was often necessitated because of the humidity and dust that prevails in eThekwini. Use of cameras in dusty and humid conditions also obliges a constant cleaning and maintenance regime. The complete overall in 2003/2004 has provided cutting edge CCTV technology at the eThekwini municipality's disposal.

CCTV Outside Magistrate's Courts in
Somseu Road eThekwini (October 2007)

(Photo: S. Vawda)

All this surveillance technology presents a powerful resource for any or all of the possible and future potential users as discussed above. But as already indicated, the multiple uses of the cameras resulted, more often than not, in competition among the eThekweni municipality stakeholders over who should have control over this vital resource, rather than co-operation toward a set of strategic and achievable goals. It is in this context of competition for the control of the CCTV system that the ABM can make their most important contribution. It already has some experience of giving direction to the CCTV system, and while under its management, albeit a temporary necessity at the time, contributed to the reduction of crime in the city centre. The following sections turn to the issues of the role of ABM, the situation as it exists, and the future of the CCTV system as surveillance and urban management system. There are two reasons to give this adequate consideration from the perspective of the ABM: the importance of integrated development and urban renewal planning and strategic interventions that the ABMs have pioneered with success could be enhanced with CCTV, and the sharp learning curve and experience gained in having to deal with multiple stakeholders in pursuant of clear strategic and long term objectives.

1.13 Role of ABM

As an external neutral agent the iTRUMP ABM office was self motivated with keen interest in the wider application of the CCTV system to include monitoring of urban renewal projects and maintenance of public space. It used its position as external integrated planning technicians and change agents to good advantage. By presenting itself as an external agent interested in facilitating some of the above mentioned complex planning issues, it was able to introduce issues related to multipurpose use of the CCTV surveillance system. ABM has a good knowledge of the city and its surrounding areas and sees itself as a facilitator and partner in future CCTV surveillance plans.

At the time of upgrading the camera system in 2003 and 2004 it was under the responsibility of Metro Police with Electronic Services being the implementing agent. Metro Police at the time was undergoing a change in leadership who was initially not in favour of the CCTV system hence the cooperation with Electronic Services proved to be problematic.

When the CCTV was being reorganized it was agreed that iTrump chair the committee of all stakeholders. A report to the city council recommended that the CCTV be relocated to Loss Control. Hence all cameras, the merger of 210 potential cameras, 20 workstations and 4 screens at each station plus 16 staff members, with new equipment (and installations) was done. It also created employment opportunities, particularly for disabled people.

As of 2004 the new control room housed at Loss Control under the City's security department was under the chairmanship of iTRUMPs ABM Manager. The ABM kick started the whole process and chaired the committee for about a year. The issues at stake were complex, ranging from the appointment of a manager to the managing of personnel and from ensuring trained and skilled personnel were available to co-coordinating the needs of different stakeholders. One particular need was the lack of funding. ABM organized ad hoc funding from the city which helped to employ temporary staff, thus ensuring operations improved tremendously. For example in one month in 2005 eighty five arrests had been made due to adequate staffing and managing the system. It was further able to recommend that the CCTV system be attached to the new people mover system on the beach front so that a regular monitoring of people ahead of the bus and at known areas along the route where random criminal activity takes place.

Although significant progress was made in managing the CCTV system, there were areas that need to be addressed. It is to this situation that the analysis now turns.

1.14 Situational Analysis

A situational analysis of the role of the ABM in the implementation of CCTV system on a holistic basis highlights four significant areas of concern. These are:

a. Problem of location. The issue about where to locate the cameras underlines the more urgent question as to what is the exact purpose of cameras. As noted above there are multiple purposes or uses such as traffic control, crime surveillance, emergency services, urban renewal and maintenance. Each of these has different trajectories and priorities in the actual setting up and implementing the CCTV system. To use a prosaic example, there has been, and continues to be a debate about the placing of the cameras with regard to their scope and vision. One strand of this debate is that the Metro Police department is keen to cut down trees that impede the vision of the cameras while others oppose it on grounds that it detracts from the attractiveness of the city. In other words the Metro Police department prefers to cut down trees or foliage to enhance their crime surveillance strategies, while other city departments feel that such acts would detract from the city's commitment to a sustainable living environment and tarnish its image as one of the main tourist cities in the country. It is further argued that placing cameras in fixed positions merely means that criminal activity moves out of sight of cameras. In consideration of the physical immobility and limitations on the range of the cameras' vision in traffic control and crime surveillance there should be other activities to enhance the value of the CCTV system.

b. The problem of control and authority. There are two issues relating to the control of the CCTV and the authority under which it will fall. Firstly, there is an issue of placing the CCTV under the control of a particular department, with clear lines of authority. The second issue is the constitutional requirements for surveillance of citizens.

There were, and still are power and access struggles between the different departments, principally between emergency services and the police over the control and access to the CCTV system. It is a truism that the potential exists for all these stakeholders to benefit enormously in their day to day work from having access and control of the CCTV system. It is also equally true that all stakeholders (Metro police, Parks and Recreation, Electronic Services, eThekwini Traffic and the SAPS) are able to monitor and receive live feeds from the different cameras. The question is under whose authority and leadership guidance does this take place in order to achieve the aims and objectives as set out in its various development documents (IDP, etc), policy document of the council and the various departments. This clearly is a central issue. The ABMs, principally the iTRUMP ABM, can make a very strong claim for that leadership role. As integrated planners and developers, the iTRUMP ABM and other ABMs have a very good understanding of the city and its environs, networks with many of the departments in the course of its work, and is very clear about the short and

long term objectives that the city has set itself.   It is one of the few city organisations that understand the extended use of the system beyond mere traffic and criminal surveillance to include the monitoring of the public space infrastructure and built environment. Indeed, it might be argued, as does ABM Crime Prevention Through Environmental Design (CPTED) reports, that planning in advance to make areas safe from criminal activity, and the monitoring thereof is essential in the fight against crime. Thus, from the ABM perspective, the CCTV is not simply about the technical aspects of monitoring and surveillance, but about planning the environment for a safer city. In this way the CCTV becomes, less of a technical implementation, but rather an extension of urban renewal and development planning.

CCTV MAST as part of planned urban renewal,
crime and environmental planning measures in INK

(Photo: S. Vawda)

The second issue, which is highlighted here and needs further consideration by the municipality, is the legal and constitutional issues surrounding surveillance. There appears to be two critical points. The first point is that surveillance and monitoring touches upon serious constitutional issues over the rights of individuals to privacy and their freedom of movement. It also touches upon citizens' rights to know that they are being monitored and under surveillance. This has particular relevance when alleged criminals are arrested as a result of

using camera surveillance techniques and the admissibility of film or photographic evidence in courts of law. Strict procedures are apparently laid down by law as to how this may proceed, which in turn requires that strict lines of authority are maintained in the control room to comply with the regulations and law. The second point relates to the need for civilian control and oversight over the police based on the principle that someone has to watch those that are entrusted with our protection. Here the council has to exercise its oversight powers over the Metro Police. In this way some of the controversy surrounding the control of the CCTV system can be dissipated. The crucial point is that they, as the metro police, must be accountable to those they are entrusted to protect.

c. *The purpose of CCTV*. It has already been stated that the CCTV has multiple functions: to assist with traffic and crime monitoring, crime prevention, urban maintenance and renewal, crime and environmental planning.

Cleaning glass verges in KwaMashu, October 2007

(Photo: S. Vawda)

From an urban management perspective, the monitoring of the public space infrastructure and built environment can cut down on the need for repeated site inspections of items such as electrical maintenance and repairs, illegal electrical repairs, adherence to city bylaws regarding street trading practices, manholes, pavements, gutters, roadside weed and other vegetation growth, street lights and paving maintenance, the maintenance of parks and gardens, traffic lights that malfunction, buildings that do no meet with the required standards of building maintenance (including buildings in the private sector – see section on Better Buildings project), road infrastructure, and a range of other items that can be identified. Such an urban management system, tied in with the other functions of traffic and crime surveillance can make a significant difference in the way in which routine checks, repairs and maintenance is carried out.

The issue of its location or placement in the city also illustrates very different perspectives on the use of CCTV and it determines to some extent the type or kind of technology used. A number of examples may be used to demonstrate this point. For example in the Point area there is a much denser layout of cameras with a different technology. The control room is based at Ushaka Marine World and run and maintained by the Point development company. It is currently outsourced to a security company, and consequently outside of the control of the Metro Police, the emergency services, traffic department and the iTRUMP urban renewal projects. In addition it has been suggested that the crime surveillance strategy move one step further towards crime prevention. This would involve the use of the CCTV for more than passive monitoring of potential criminal activity: to a planned use of the cameras as part of an intelligence gathering exercise in order to plan crime prevention strategies in high risk areas. Such contrasting views on the use and placement are still being debated. While the debate continues, the situation can result in nullifying any concrete actions to meet its potential objectives. It seems very clear, certainly to the ABM managers, that the multiple purpose of the CCTV system needs to be reconceptualised to meet very different strategic objectives than those that prevailed in the 1970s and 1980s.

*Warning to the public of CCTV Surveillance
in the Point area*

(Photo: S. Vawda)

d. *Technical requirements.* Since its inception the CCTV system has been under continuous development, upgrade and expansion, a point that has been made above. As a result of those engagements with numerous contractors and suppliers, each having differing competencies and resource levels and each offering varied products from different manufactures with differing levels of support, significant technical problems have developed, e.g. product incompatibility, software limitations, equipment obsolescence etc. However, as the recent overhaul of the system has attempted to go a considerable to overcome these technical obstacles.

The monitoring room is being re-organized, and will fall under the responsibility of the Ombudsman. At the moment iTRUMP is preparing a report on the envisaged interdisciplinary approach on the use of CCTV.

Given that the CCTV system can be an important tool for the management of the city into the 21st century, the issues around control, authority and function and technical requirement have to be resolved. It is suggested that as there are many competing departments and stakeholders in the CCTV system, it requires and obliges the eThekwini Council to use the human resources that are best able to deal with the conflicting claims in order to restore a functional equilibrium in its routine running and long term management of such a important tool.

1.15 Planned Future Interventions

ABM has proposed to City Management a more interdisciplinary approach to use it as an urban management tool. Proposal together with an organogram and business plan was submitted to City Manager around the end of May 2007 but the ABM office has not received a response yet. As part of the proposal ABM intends to chair the committee for running and maintaining the cameras as a multi interest tool for Emergency Services, SAPS, and Metro Police and others.

1.16 Assessing ABM Successes and Failures

1.16.1 Lessons Learned

The CCTV project is a good example of how ABM can intervene in a strategic and to an extent neutral manner. By acting as the external agent it helped develop a vision of where the project could be taken. In addition, the ABM assisted in getting acceptance of the camera monitoring function to be attached to the new people mover transportation system (a conveyor system of busses between the northern beaches and UShaka Marine World) that operates along the beach front. The monitoring system attached to the busses will help identify those who constantly hang around certain parts of the routes and anticipate any problems that may result. In other words the routes can be constantly surveyed, monitored alerting Metro police and other city services for any eventuality. However, there are limitations.

Limitations of the system

- ❖ 'Over'-Enthusiasm – the CCTV can gather information and be more of a passive surveillance tool. It cannot prevent a crime. It can assist in making the conditions – the environment – much more difficult for crimes to be openly committed
- ❖ It requires it to be manned by highly disciplined staff. The employees must be credible and well trained to 'read' the signs for potential criminal activity and the need for urban maintenance and repairs. If not, then this facility is open to abuse and corruption.
- ❖ This facility is a powerful tool to survey open/public spaces but leaves room for corruption and might encourage those with a search for power and dominance. For example, to control this facility, one can allow it to be turned off, or to be focussed in the 'wrong' direction, thus allowing for crimes to be committed. The system requires a tight maintenance schedule. It is only as good as the cameras. If the cameras do not work, the system fails.
- ❖ There is also the question of maintenance of the system. Only one company currently has the contract.
- ❖ Institutional mismatch, power, gender and authority are key issues to have the system run effectively

1.17 Recommendations for a Realignment of Interventions

Much of the realignment of the use of the CCTV system has been alluded to in the above sections. In order to have an integrated urban management system, a different approach is required. For example if there was a malfunctioning traffic light it would be relatively easy to direct a message to the electricity department to fix the problem within a given response time. It will be possible to check on the maintenance of places like parks and verges. Electrical prompts would be used in the messages to the relevant line department. The CCTV could be used to check on numerous things such as man hole cover theft, or maintenance issues in roads or buildings as well as waste removal monitoring. As shown in the analysis above this requires a complete reconceptualisation of the use and purpose of the CCTV system for the 21st century

The CCTV system could further be used proactively:
❖ To manage the environment – having a clean, well maintained orderly environment – that would give crime or people with a criminal mind less intention to commit crimes.
❖ To root out anti-social behaviour. But the camera system has to be used with caution, because bad behaviour can simply transfer to other sites. Surveillance techniques have to be used cautiously and creatively. They cannot be used in an excessive manner especially in crowded spaces.
❖ Monitor illegal activities in public spaces such as electrical connections, especially in places like the Point, illegal trading, anti social activities such as drinking in public, illegal graffiti among others.
❖ In conjunction with the physical presence of police the CCTV can assist in maintaining an effective public order.

Although the use of CCTV as a technology of surveillance and monitoring has formidable uses, particularly to act upon the suspicion and actual crime taking place, it still requires that people need to act in a way which enhances safety and security and eliminates endemic crime, or at least reduces crime substantially. Yet for all the advances in technology it still requires that there are dedicated, skilled people of integrity to interpret what they see on screen and are able to act within the bounds of the law contributing to the prevention of crime and the apprehension of criminals. In Cato Manor an experiment involving the use of crime mapping and environmental design to prevent, restrict, or discourage crime in association with the local community is taking place. Called the Community Safety Initiative, it involves multiple stakeholders from civil society, the community, the South African Police Services, Metro Police and others from the local authority, including the Cato Manor ABM. It is to Community Safety Initiative that this report now turns

4 Community Safety Initiative in Cato Manor

1.18 Introduction

Cato Manor is about 1 800 hectares in size and has a population of about 93 000 people; many of these settled in the area during the mass invasions in the late 1980s and early 1990s. The area has a high unemployment rate and there is much social fragmentation. Parts of Cato Manor consist of informal settlements or shanty towns and there are a large number of youth residing in the area. Facilities such as electricity and waterborne sanitation are limited and recreational amenities are few in the formal housing parts of Cato Manor and non-existent in some sections, particularly in the informal settlements.

Armed robbery, housebreaking, rape and assault are the four priority crimes in the area, according to Cato Manor SAPS. Domestic violence is a major problem and accounts for most of the assault cases that occur in the area, according to the police.

The Community Safety Initiative (CSI) comes from the official launch in 2004. The term CSI is used rather than CSF (Community Safety Forum). The idea arose from an initiative piloted in Cape Town. UMAC, which stands for U Managing Conflict, an NGO committed to the non-partisan facilitation of community safety and peace building programmes. UMAC has facilitated and monitored the piloting of the CSF model in urban, peri-urban and rural areas in the Western and Eastern Cape as well as in KZN since 1999.

 This initiative is now brought to Cato Manor and it plans to later make inroads to other areas like the CBD where there are threats to safety and security.

1.19 Context and Situational Analysis

According to their own guidelines the Community Safety Initiative (CSI) in Cato Manor sees its purpose to address the need for a multi-agency response to crime prevention as well as to prevent the duplication of efforts and wastage of expenditure. Regarding the functions of the CSI it is supposed to co-ordinate crime prevention activities from a local government level (this involves identifying and integrating existing roles and programmes), to facilitate co-operation around service delivery particularly at the local level and to initiate and implement new projects. Concerning the status and the mandate of this non-statutory body it should ideally be owned by the municipal manager of eThekwini and co-

ordinated by the Cato Manor Area Based Management (ABM) with participation by the various organisations in Cato Manor, and a host of other government bodies. The Cato Manor Community Safety Initiative is made up of the following participants: various local government departments such as Metro Police, Health, Housing, Parks and Recreation, Electricity, Safer Cities, DSW; NGOs; Youth organizations; Business leaders; CPF representatives; Ward committee representatives; Cato Manor SAPS; Provincial government departments involved in Cato Manor: Health, Community Safety and Liaison, Education, Welfare, Economic Development, Arts, Culture and Tourism; and various relevant national departments: Justice, Labour, and Correctional Services. All representatives are expected to be senior decision-makers as decisions made up the CSI must be immediately implemented. Reporting back to the various organisations principals would delay the urgent task of bring crime under control in Cato Manor.

The Cato Manor CSI meets on a monthly basis with thematic task teams meeting more frequently. It has an annual business plan, memorandum of commitments, service level agreements and writes up quarterly progress reports and has its own quarterly monitoring and evaluation mechanisms in place. In practice the CSI works closely with the Independent Projects Trust (IPT), the Safer Cities Unit, the local CPF and the Cato Manor SAPS and Metro Police. More recently representatives from local Ward committees are attending the monthly meetings.

1.20 Role of ABM

Since its inception in 2004 with numerous NGOs working in Cato Manor, the ABM was looking at partnerships and strategies. A number of initiatives were formulated and tested. As of 2005 the CSI became more sharply focussed and given direction with linkages and strategy becoming clearer. It has taken almost 3 years to roll out the CSI in Cato Manor.

According to interviews with key stakeholders the ABM in Cato Manor has been crucial in testing the Community Safety Initiative. If it was not for the ABMs there would not be any authority to facilitate the negotiations and encourage people and organisations to attend these meetings. Indeed the formation of the CSI would not have been possible, and the changes that are being implemented to fight crime in Cato Manor and its environs would not be taking place today. As one informant stated: "They had the power to make the changes".

In general the Cato Manor SAPS has a close working relationship with Cato Manor ABM. The same approach is being done in INK. Initially SAPS and Metro Police worked separately with strict boundaries. Through Cato Manor ABM's facilitation this process has changed to a more integrated working environment whereby they are working closely together.

The first successful project was the crime mapping whereby the Cato Manor ABM made available to the Metro police a substantial amount of financial and logistical support for this project and helped to market it. A central feature of this project was obtaining crime statistics. Although it was a rather long bureaucratic procedure, to get to use official crime statistics from the SAPS, the data that was eventually released was fed into Crime Mapping software, which quickly built up a profile of crime in the Cato Manor area. It showed the times, dates, sites and types of crime. What emerged from this exercise were distinct crime patterns for various periods during the day and night over a period of time. It also showed how the environment can be conducive to crime, such as the long grass for criminals to hide in and prey on unsuspecting victims. This enabled the SAPS to plan their interventions and crime prevention strategies more systematically. This release of data for crime mapping is now an ongoing project of the Cato Manor ABM. Community crime mapping is a relatively new technique in policing. Although it is part of a grass roots approach it involves the use of high end computer geographical spatial technology by combining graphical mapping of the environment with data analysis. At its heart is an analysis of the natural and built environment in which crime occurs. This analysis can be aligned with another project of the ABM, the Crime Prevention Through Environmental Design. The Crime Prevention Through Environmental Design (CPTED) project has been piloted in various parts of the world, and is being tested for Cato Manor. Essentially it is planning for safety. First you observe the environment and the possibilities and existing criminal activity, and then there is implementation and post intervention analysis to check if the challenge was meet, and then revise interventions.

These projects, the Crime Mapping and CPTED were discussed with the local Community Policing Forum (CPF). As commissioned police officers sit on these various committees they have the authority to address public meetings, and based on the situational analysis on crime can make decisions and commitments to the community in terms of fighting crime. Given the mandates of the Community Policing Forum from the community, and its work with the SAPS it is one of the major drivers of CSI meetings and its activities.

1.21 Recommendations

According to key stakeholder interviews the future of Crime Mapping and the ABM seems unclear. All ABMs have a certain time span and it remains to be discussed who between the city council and the SAPS/Metro Police will continue to facilitate these processes after the ABMs exit. The future value of Crime Mapping for the communities is dependant on how it is used. It was recommended, in interviews with various key informants, that Crime Mapping is a vital tool for future use. Law enforcement agencies need to be capacitated to appropriately use the advanced technologies. As one of the ABM managers that assist with safety and security matters stated: "This is intelligence driven policing,

where planning must be dependent on intelligence. In other words decisions in the police force must be based on reliable information".

1.22 Conclusions

In the above analysis the individual ABM programmes have been assessed for their successes and failures, and many recommendations have been made. These will not be repeated here. Instead some general points regarding the successes and failures can be mentioned.

Clearly, the ABMs have had many successes and some disappointments. Some of the successes, such as the Community Courts, and the facilitation and project management of the programmes and projects in an integrated way are outstanding successes. However, it should be noted that many of these programmes have been in existence for a very short time. Assessments have been based on these limited time spans. It would seem that more time is required for the projects and programmes to mature for a more thorough long term assessment of the successes.

It is also very clear that there are no separate independent built-in regular ongoing evaluations of the programmes and projects, except to measure by the terms laid out in the business plan. In essence, there is no critical evaluation of the impact of these programmes and projects. Such critical regular evaluations based a set of evolving key performance indicators (not individual performance indicators) might provide the means by which disappointments and potential failures of the programmes and projects can be averted.

The above mentioned programmes and projects are also in many respects experiments. For example the Community Courts were initially driven by a demand laid out in the President's State of the Nation speech, and had to be incorporated into the planning and implementation time scheduling of the ABMs. This was, and still is an experiment in restorative and community level justice. Its success suggests an expansion of the idea to other parts of the City, Province and nation. Yet this very success also depends on the integration of the Community Safety Initiative together with the CCTV system. In essence, the argument that could be advanced is that far greater integration of these separate crime and justice programmes could be attempted.

5 The Better Buildings Project

1.23 Introduction

Within the eThekwini council and among the citizens, serious questions were being raised about the legitimate use and maintenance of some buildings in the City, particularly in the inner CBD and on the beachfront. It has been further alleged that in some cases, the neglect of buildings and the questionable activities associated with them contributed to the deterioration of the urban landscape and was a factor in fuelling crime in the city. This project began as the 'bad buildings project' on instructions from the Municipal Manager with the view not to close down buildings but to attempt to rejuvenate and restore them for legitimate activities. The areas that were to be covered by this project were: Umgeni Road, Albert Street, the inner CBD, Warwick Ave and the beachfront. However, this required some degree of co-ordination between different municipal departments, including the police. Although the committee created to oversee the implementation of Council's directive worked hard, it soon fell apart. What was needed was a body that could play a co-ordinating role. Four months later, the committee was resuscitated, renamed the Better Buildings Project, and incorporated into the programmes and projects of the iTrump ABM.

1.24 Context and Role of Better Buildings Project

Over the last 15 years the inhabitants and users of the city have changed considerably. From a city that had been exclusively for the use of white people, the change to one of being more inclusive has lead to different economic, financial and commercial uses, as well as new residential patterns. The influx of migrants to the city from within and without South Africa added to these changes. This inflow of new residents and economic actors was to some extent complicated by a steady stream of financial, commercial and other businesses leaving the city centre and relocating to new business centres in the suburbs and on the margins of Durban. The change in users, consumers and residential patterns have contributed to the deterioration of some buildings leading to concerns that they were further contributing to the decay of the inner city, providing an ideal environment for crime to manifest itself, and exacerbating the flight of businesses and inner city residents to the suburbs. It is in this context that the better buildings project must be located. It was and is part of an attempt to reverse the decline of the inner city built environment by increasing the commercial and retail attractiveness of the city centre for businesses (for example by increasing the use and value of rented space for formal businesses and accommodation), and injecting a new sense of leisure, recreation and night life by promoting events and cultural attractions.

The Better Buildings Project started with three important objectives:
* identify the buildings that where used for less than legitimate activities;
* identify those that were badly maintained and managed in terms of municipal bylaws and property laws of the country (including arrears in rates, water and electricity payments), and
* Identify those that posed a serious health and security risk to the public.

(Photo: S. Vawda)

In the picture above, the building that housed the Rock World Nite Club and Restaurant has been identified as a badly maintained building with serious health and safety risks. It is to be sold to an investor and converted into hotel.

The aim was to turn around the buildings – restore, rejuvenate and regenerate - rather than close down buildings. However, in this second attempt to turn 'bad' buildings to 'good' buildings, the approach was more cautious. The approach was for the Better Buildings team to learn as they proceeded towards meeting their aims and objectives, and to have close co-operative relationships with the relevant authorities, and owners and managers of buildings. To meet these objectives, the strategy was to identify a single potentially 'worst offender', and then try to get the owners, managers and tenants to change the way the building was used and maintained, and in the process remove any potential structural, health, security and crime risks. This was to become a model of the how the Better Building Project operated. Each new situation, its successes and failures, would add and build on the model of how to change the inner city, thereby halting and reversing its decline and decay. It has been claimed that this strategy is already bearing fruit: there are already tangible and measurable successes, as after a period of decline, office rental space has begun to increase in the central business district (Interview, Manager of iTrump ABM). Furthermore, on the basis of information gathered and investigations done a meeting was arranged between various owners of buildings in the inner City and the City Manager who

politely but firmly told them that their management of the buildings they owned left much to be desired, and that they should attend to the illegal activities and conditions of their buildings.

1.25 Situational Analysis

Although successes have been claimed for the Better Buildings Project following the cautious and co-operative model adopted, this has not been without its own share of issues and problems in trying to restore, re-generate and rejuvenate buildings. As the manager of the project stated 'Each building poses its own set of unique problems and strategies to turn it around will differ'. The real problems only come to light after a building as been initially identified. Decisions must be taken as to whether the major problem is the kind of activities that are carried out within its walls, or the structure of the building itself, or a combination of the activities and structural integrity of the building. The model that has been developed thus far then proceeds through a number of stages. The success of each stage determines the type and resolution of problems encountered, and the final outcome towards a restored and regenerated building. The time frames are thus unpredictable and depend on the resolution of problems encountered.

The first stage in the Better Building Project, once a problem building has been identified, is to note the location and classification of the building and the current activities. In other words, what is the exact location of the building (area, street, and zoning that is applicable) and for what purposes was it built. For example, what type of business was it registered for, or if rental accommodation, was this for offices or residential purposes or both? The type of building and classification of activities in turn have particular sets of legislation, rules and regulations that are applicable. To obtain this information would require the co-operation of among others, the real estates, rates, water, electricity, physical planning and building inspectorate departments of the City.

The second stage is establishing the ownership of the building. There are three possibilities: the Council itself, other state (Provincial or national Government departments) or private owners. In the case of state ownership, the issue is whether a government department wishes to upgrade the building, offer it to other state departments, or rent the building out to tenants from the private sector. There is a due process that is followed to use or rent state properties.

Private ownership of property can take one of five different forms: a single person; a propriety limited company, a close corporation; ownership through sectional title and a trust. Establishing ownership is not difficult as this can be done through the Registrar of Deeds office and/or through the real estates and rates departments of the City. Complications that emerge are in tracing who exactly the owners are to serve them with notices that their buildings are considered a problem or a 'bad' building which requires their urgent attention.

By asking owners to attend to their buildings means that the second stage must go hand in hand with the third stage. The third stage is about making a full and comprehensive investigation into the building as a structure and the management of the building. If a building has structural problems, depending on the government and/or municipal department that is responsible for checking or inspecting buildings, this can be handled at this level and resolved. It is the next stage of investigation that is usually the most challenging. An investigation the management of the building inevitably means that the next stage of inquiry begins with an understanding of the full range of activities within the building, that is, the ways in which the building is used and consumed. It is primarily the range of activities in the building that is of most interest in terms of its legality.

When many of the commercial and retail industries and former residents abandoned the city centre, the space created was filled with many new kinds of activities, some of which did not always accord with the original planned activities for tenants. While there has always been retail, manufacturing and a substantial amount of office space used in the central business district, a range of new activities such as taverns, actions bars, night clubs, accommodations of various types (much of the accommodation directed towards the low end of the market – these are outlined below), workhouses (sweatshops), massage parlours, escort agencies, places of adult entertainment, warehousing and storage has become common place. While most of the new business activities may not be illegal, the problem is trading may take place without the required permits. Trading may also attract illegal activities with specific regard to the buildings themselves: illegal or overcrowded accommodation, illegal gambling, drug dealing, prostitution (it is possible that human trafficking is also taking place) and other petty crimes (loitering with intent), assaults, and common robbery. (This is not to say that other more serious crimes do not take place: see the section on community courts above).

New Business Opportunities in the CBD:
Massage Parlour, West Street, eThekwini

One of the new practices that have emerged in the last fifteen years is the provision of cheap accommodation, especially for those that are homeless, destitute or struggling to find a place to sleep in relative security. This practice does not in itself lead to 'bad' buildings, but can lead to the exploitation of accommodation space, and can pose health and safety problems. In Durban, there are several categories of accommodation available; hotels, bed and breakfasts and low budget accommodation places. The hotels and bed and breakfasts establishments are usually well organised to cater for tourists, conference attendees and business people, whose standards fall within regulations that govern them. The third category is the low budget accommodation establishments, which caters for a very different kind of client.

In this third category there are at least three types. The first is to meet the needs of cross border traders such as Zimbabweans. They are usually able to sleep six to a room during their stay. Most cross-border traders stay a few days and nights while conducting their business, and then leave. These establishments are usually clean and well-organised.

The second type consists of dormitory type accommodation. These establishments are run by religious and welfare organisations and low end accommodation entrepreneurs. They cater for the destitute, homeless, vagrants, recently arrived migrants in the city, the unemployed and street children. It usually consists of a bed, and sometimes the possibility of meal for between R10 and R15 a night. These dormitory type accommodations are usually found in the run down parts of the city, in old and badly deteriorating buildings or warehouses where the rent is affordable for welfare and charity organisations. Rent for these buildings can be anything as low as R350 to R900 per month for the space only.

While these dormitory accommodations serve an admirable social function there is a concern that (i) the buildings they occupy are rapidly deteriorating and need attention (ii) they may be used for criminal activities, or unintentionally 'hide' petty criminals, and (iii) that some 'entrepreneurial' persons exploit the misery of others by setting up these dormitory type cheap accommodations with little concern to the health, safety and minimal comfort standards by cramping as many people into the spaces they have as possible. There are also the issues related to inadequate fire precautions and ablution facilities which are given scant or no attention at all.

New Business Opportunities in the CBD,
Cheap, Reasonably Priced Accommodation

The third type of cheap accommodation is those buildings that basically cater to the sex industry by charging for rooms on an hourly basis. These sites can be prone to conflicts and violence between prostitutes and their pimps, as well as assaults on prostitutes by clients. It is suggested by the Better Building Project that by legalising the industry, greater control could be exerted over the buildings and they could be made safe through regulation.

The Better Buildings Project is not designed to stop trading and accommodation practices (indeed the city wishes to encourage sustainable economic enterprises and a vibrant city centre), but rather to achieve a sustainable built environment within the inner city through the regulation of activities within the broad ambit of the law, through responsible ownership and management of the activities within the buildings, and proper utilization of their facilities and environment. This is easier said than done. There are a number of problems that are encountered once a building has been identified as 'bad' within the terms of the Project's mandate.

❖ City Council and Government owned properties. While the system of taking responsibility for the maintenance and activities of public buildings can be accurately pinpointed, the process is cumbersome. Although the Better Buildings Project has tried to facilitate and speed up proceedings, it is not strictly within its mandate to play the role of facilitator between City, Provincial and national government departments.

❖ While it is relatively uncomplicated to identify owners, it is alerting and communicating with owners to enforce their responsibilities that can be difficult. Examples are listed below:

❖ If the owner is an individual, who is easily identified through the Deeds Register, the Rates or Real Estates Department of the city and the business or residential address located, a letter can be sent to the owner requesting that the building be 'fixed up'.

❖ Identifying and serving a notice on owners who are private companies, closed corporations and trusts raises difficulties.

➢ The first difficulty arises from serving letters on companies and trusts bringing to their attention the neglect of their property. This involves legal proceedings. Reminding private sector owners of their responsibilities leads to the serving of subpoenas and long and expensive court cases. Legal proceedings inevitably defeat the purpose of solving the problem, as seen by the Municipality, as quickly as possible through negotiation.

➢ The second difficulty lies in identifying the actual membership and executive of the close corporation. In this case sending letters and serving notices on the accountant of the close corporation usually provokes helpful responses. One problem that has emerged is that members who have bought apartments, especially first time buyers, within the inner city are often not told of their responsibilities in terms of relevant legislation, particularly with regard to levies, special levies, general maintenance requirements, and the kind of activities that are permitted within a residential complex. Lack of levies and the delayed payment of rates often lead to a steady decline in maintenance and refurbishment of buildings. Disregard for the permitted and regulated activities creates a climate of tension within residential complexes. A decline in the building standards and flouting of rules and regulations on activities (if they exist) can promote the decline and decay of buildings, encouraging occupation by those less than concerned with the condition of their immediate habitation, the building and its environs.

➢ The third difficulty concerns buildings or apartments that are tied up with trusts and wills. The main problem is in identifying who are the beneficiaries of the trusts, or the managers/administrators of the trusts. These beneficiaries may not be found locally, and often are resident in other countries. However, in most cases once they are aware of their obligations, they resolve the problems, particularly those that relate to issues of building maintenance.

➢ The fourth difficulty relates to the activities or utilization of the building and its environs. While some activities are illegal (see above), there are many other activities which require the permission of the relevant department. For example, eating establishments which have sprung up to cater for the food tastes of new residents and users of the City. While eating establishments or restaurants are not illegal, they may not align with the original activities for which permission was sought for the building. However, while the City Council does not wish to retard these developments, it does require permits to be sought and granted. This would also apply to the creation of accommodation spaces for the lower income new comers to the city. The problem as identified by the Better

Buildings Project is not only the kind of permissible activities, but that there is no well considered plan to deal with the new users and consumers of the City (although, as stated before, some activities are dangerous because they pose health and safety hazards, such as residential overcrowding, while others are clearly illegal such a drug dealing). Old town planning regulations designed for an era that is no longer in existence often conflict with new practices and activities. While in most cases the regulations can be interpreted to permit new uses, it is still possible for objections to be made. For example the requirement that sufficient parking be provided for a restaurant seems at odds with a new inner city resident population that does not require it (such as a restaurant for newly arrived local and foreign African local migrants). The real problems are: (i) that such regulations can be used as grounds for objections to granting permits and licenses for new kinds of trading activities, thus fuelling tensions, feelings of exclusion and marginality, and promoting a dubious kind of boundary and identity marking, and (ii) no new policies and regulations exist to take into account new realities for both investments and new economic activities.

➢ A fifth problem arises when the managers of a building, usually appointed by an absentee landlord (a single individual, or company or trust), do not enforce the building regulations and City bylaws. In addition there are lease agreements which are not effectively enforced by the building management. While there is some element of reluctance to enforce regulations and lease agreements by the building managers, except in the most perfunctory way (for example collecting the rent), there appears also to be a considerable lack of understanding of the role of the building and lease management as well as a distinct lack of skills and training in this form of work. The lack of understanding of their role and reluctance to enforce the rules and terms of the lease agreements on the part of managers leads inexorably to bypassing any observance of the rules, regulations and legislation, and to creative ways of circumventing the need for permits to carry out certain activities.

1.26 Conclusions

Some attempts have been made to bring in changes through negotiations and shaming building owners, as well as using the current legislation, such as it is, to close down buildings (on the grounds of outstanding rates, electricity and water accounts, and deliberately ignoring building regulations and bylaws regulating activities). This approach has brought some benefits by closing down drug havens, and limiting criminal activity. Using the ABM approach of integrated planning allowed co-ordination and involvement of a number of different Municipal Departments in pursuing the objectives of renewal and regeneration of the physical structure of the inner City's built environment. However, as the manager of the Better Buildings Project argues, this is not a comprehensive

approach. What is needed is a comprehensive policy and set of regulations that take into account the new users and consumers of the City, and their needs and practices aligned with the vision of the City.

1.27 Recommendations

❖ A comprehensive policy and regulations review needs to be undertaken with a view to a new policy on the built environment and associated activities and practices.

❖ A comprehensive policy needs to take cognizance of the rapid urbanisation process and the implications this has for the future development of the inner City built environment.

❖ The Better Buildings Committee to be strengthened and given greater co-ordinating powers to ensure the integration of functions across different Municipal departments to carry out its tasks.

❖ The Better Buildings Committee to work more closely with ABM departments on community policing and crime prevention initiatives, the CCTV initiatives as an urban development management tool and Crime Prevention through Environmental Design (CEPED).

❖ The Better Buildings Committee to have discretionary funds to take urgent and effective measures to secure, protect and mitigate deteriorating buildings and their environs.

❖ Review the model that has been applied thus far. Conduct a strengths and weaknesses analysis of the model, and develop a new model of operation alongside a comprehensive set of principles and regulations to guide the work of the Committee.

❖ Develop a comprehensive understanding of and make proposals on social housing needs to take into account the homeless, the destitute, street children, newly arrived migrants and similar social groupings.

❖ Develop a comprehensive understanding of the potential local economic opportunities inherent in the new activities and practices of inner City residents and inhabitants, including social welfare and 'entrepreneurial' initiatives on the provision of cheap safe accommodation.

❖ Develop a comprehensive understanding of prostitution with a view towards legalisation and regulation.

❖ Ensure an effective working relationship with the Registrar of Deeds (the Deeds Office) and the Provincial Planning and Development Commission.

❖ Create and submit suggestions for a legislative review to (the Provincial Planning and Development Commission, the relevant Provincial and the national government departments, parliament, and the judicial law commission) on the following:

➢ Sectional Title Act – the dissemination and responsible management of sectional title properties.

➢ The legal responsibilities of absentee landlords

➢ The responsibilities and duties of building managers

- ➢ Social housing in the context of rapid urbanisation – especially for the homeless, destitute and newly arrived migrants, and street children
- ➢ The legalisation of prostitution

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