

Case study 4: Partnerships at municipalities

Experiences from Ethekewini Metropolitan and Buffalo City Municipalities

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Introduction

Central to the quest of government to deliver essential services to the needy, is the necessity to devise creative and innovative ways of ensuring that these services are delivered in an efficient, sustainable and equitable manner. While the provision of these basic services remain vital, it is equally important for local government to ensure that the maintenance of municipal services that are currently working does not deteriorate and that there is still room to engage new ideas on how to expand local economies through partnerships with the private sector. One of the key ways of ensuring this is through the pursuit and establishment of the public private partnerships. These partnerships are aimed at amongst others; boosting the performance of government, specifically local government in order to operate smarter in realizing its developmental mandate.

The public private partnerships are increasingly becoming a popular tool amongst public service organizations in an effort to secure efficient service delivery and accessibility to public goods. Over the years, the South African private sector has shown a strong commitment to policy priorities and development agenda of government. While this is the trend in the private sector, the National Treasury has introduced an array of regulatory frameworks that are aimed at actively attracting private sector engagement in national, provincial and local service delivery. Within this new initiative, the specific areas of focus are primarily on infrastructure development such as roads, water infrastructure, energy distribution, housing, schools, communications and health infrastructure. These areas are perceived as high-potential sectors for PPPs and government organizations are challenged with scoping and initiating such partnerships. The emergence of the public private partnerships has proven to assist with the implementation of the projects emanating from the provincial and municipal [integrated] development plans.

While existing partnership initiatives show some potential in contributing to the achievement of government's development agenda and its targets, the real scope of this potential for strategic partnering is yet to be understood and explored. It is broadly within this context that this study was initiated, i.e. to obtain a holistic and in-depth understanding of the forces driving or constraining the development of the public private partnerships using a case study, given the recent emergence of the capacity constraints as one of the constraints that have been discussed in previous fora.

This report provides the findings two case studies that were conducted on the current public partnership practices in the municipalities of Ethekwini Metropolitan Municipality and Buffalo City Local Municipality. The report starts by explaining how the case studies were conducted, provides an overview of the municipalities that were studied and a synopsis of the case studies under scrutiny.

The Purpose of the Case Study

While the case studies focus on a few aspects of public private partnerships within local governance, amongst them the strengths and weaknesses of the partnering processes, the overall objectives of conducting the case studies was to be two-fold. The study sought to:

- a) Extract overall trends in terms of experiences, expectations, lessons, challenges pertaining to current public private partnerships practices in the two local municipalities and*
- b) Identify and understand opportunities and threats for engaging in partnerships from a municipality's perspective/experiences.*

Research Methodology

Sample Design

In order to conduct the case studies, two municipalities we identified by the client, a metropolitan municipality, the Ethekwini Metropolitan Municipality and a municipality that aspires to become a metropolitan

municipality, the Buffalo City Local Municipality. The former municipality is located in Kwa-Zulu Natal province while the latter is located in the Eastern Cape province.

While Ethekwini Metropolitan municipality has a larger population, is more capacitated and has a large urban area, the Buffalo City municipality on the other hand is smaller, less capacitated and more rural. Both municipalities are located on the coast and have harbors.

It was targeted that five interviews would be conducted per municipality. This was not possible due to time constraints and the fact that some of the key managers in Buffalo City Municipality have just resigned. As a result of this, only two managers were interviewed in Buffalo City. This was not the case in Ethekwini, about 5 managers were interviewed. The only challenges in Ethekwini was that some of the project that the researcher was referred to turned out not to be PPP projects, while some of the managers were not available.

Data collection method

The data gathering method used in the case studies was interviews. The interviews were semi-structured. The questions asked during the interview were both exploratory and descriptive in nature. They sought to seek trends and patterns on the following issues:

- Timing
- The initiator of the PPP project
- The process leading to a successful partnership
- Issues that enabled/facilitated the successful procurement of the PPP
- The role and impact of legislation
- The challenges of securing the PPP
- The value/impact of a PPP within the municipality

Not all interviewees were able to provide clear answers to some of the questions above. Most of the interviews were conducted in not less than one hour. Some of the interviewees were used as a source of referral to their colleague who they thought had useful information. While some of the interviewees were involved in basic service delivery projects such as water, electricity and waste, others were involved in service delivery projects that related to economic development such as land and property development.

Data analysis

Due to the qualitative nature of the case study, the data that obtained from the interviews was analyzed in a manner that extracts major themes, trends and patterns on a the questions that were asked to the interviewees. The analysis of data also has elements of interpretation of some of the information provided during the interviews.

Limitations of the study

The main constraints of the study can be summarized as follows:

Time

This study was conducted in less than a week. This made it challenging to obtain some of the interviewed due to the fact that some of the people who were to be interviewed were not available within the short time frame. It also became apparent that in some cases, a follow-up interview would have added value to the case study.

Terminology

It was eminent in most of the interviewees that there was no clarity as to what the concept of public private partnership meant. This uncertainty led to elements of insecurity during the interview.

Appropriate case studies

It came out during the interviews that there were no PPP projects being undertaken in one of the municipalities. This led to desperate attempts to extract lessons from a failed PPP project within the municipality. In other instances, only projects that could be potential PPPs were identified but no clarity was available yet as to whether this would be the PPP would be the preferred way of delivering this service.

The Case Studies

Ethekwini Metropolitan Municipality

The case public private partnerships explored in this metropolitan municipality are:

- a) *The Durban Water Recycling Project,*
- b) *The Durban Point Water Front Development, and*
- c) *The Springfield Industrial Estate,*

The Durban Water Recycling Project

Name of the Project	The Durban Water Recycling Project
Description of the project	The project is concerned with the treatment of municipal waste/sewerage water for alternative consumption by other clients of the municipality with the view of generating revenue and complying with relevant legislative requirements. The project was initiated during the late 90s and has a life span of 20 years.
Partners in the project	<ul style="list-style-type: none"> • The Ethekwini Metropolitan Municipality • Durban Water recycling company consisting of 8 partners
The role of various partners	<ul style="list-style-type: none"> • The Ethekwini Metropolitan Municipality's role is to fulfill its water service authority role as prescribed in the Water Service Act. • The role of the Durban waster recycling project was to implement the agreement reached with the municipality with regard to waste water recycling.
The initiator of the partnership	The municipality initiated the processes.
The processes of procuring the partnership	The management of the engineering department municipality came up with the idea. They then conducted a feasibility study internally and another one externally. After the positive results from the studies, the municipality went into a bidding process. The municipality crafted short-listing criteria that would benefit their preferred bidder. After the short-listing process, a negotiation process took place in order to secure a deal with the bidder of choice.
The value of the partnership to the municipality	<ul style="list-style-type: none"> • It is estimated that the municipality is able to save half a million rand per month through this partnership. • The municipality is also able to recover its infrastructure investment cost through this partnership.
Key challenges	<ul style="list-style-type: none"> • The current legal framework threatens and stifles creativity and innovation during the bidding negotiation process • Municipal officials are discouraged to invest time in devising solutions to long-term municipal challenges due to stringent legislative requirements, • The current stringent legislative requirements do not seem to take into account practical challenges of changing from one system to another. • The political climate/conditions under which some of the partnerships are undertaken increase the negotiation risks of municipalities. • Technical difficulties regarding the execution of the project during the negotiation process. • The negotiation process towards securing a lucrative PPP deal.
Key lessons	<ul style="list-style-type: none"> • Good management and leadership skills are crucial, • Good negotiation skills are key in ensuring such high-level partnerships, • Municipal representatives must have the authority to make decisions on the spot,

Name of the Project	The Durban Water Recycling Project
	<ul style="list-style-type: none"> • International exposure can be useful when negotiating such high profile projects, • The ability to justify risks taken is important, • The ability to manage political sensitivities are vital, • The importance of pursuing a win-win end result within a partnership and • Visionary and long-term thinking is crucial.

The Durban Point Water Front Development Project

Name of the Project	The Durban Point Water Front Development Project
Description of the project	<p>The trigger for the development of Durban Point can be found in the water reticulation and purification system for uShaka Marine World and the need to return that water to the sea via a canal. This led to the idea of creating a unique "waterfront city within a city" in which a system of canals forms the central spine of urban redevelopment and where the economic benefits of water frontage extend throughout the area.</p> <p>It is envisaged that a range of activities will be accommodated in a mixed-use environment containing a host of urban functions and reflecting a true urban place with 24-hour activity.</p>
Partners in the project	<ul style="list-style-type: none"> • The Ethekewini Metropolitan Municipality • Metallon Properties (Ltd)
The role of various partners	<ul style="list-style-type: none"> • The Ethekewini Metropolitan Municipality
The initiator of the partnership	The municipality initiated the processes.
The value of the partnership to the municipality	<ul style="list-style-type: none"> • The project contributes about 3 to 4 billion rand to the GDP of the municipality • The projects is providing basic services in the area on behalf of the municipality
Key challenges	<ul style="list-style-type: none"> • The lack of capacity from the municipality to delivery services, • The profit making orientation of private sector threatens their involvement in partnerships • The current legislation is not promoting a friendly environment to conduct public private partnerships.
Key lessons	<ul style="list-style-type: none"> • Mutual interest underpinned by the understanding that both parties need each other is important in initiating and procuring a partnership. • Shared goal and vision on a commodity between the private sector and the municipality is important.
Support requirements/ capacity building needs	<ul style="list-style-type: none"> • Negotiation and facilitation skills • Review the current legislation.

Springfield industrial estate

Name of the Project	The Springfield industrial estate
Description of the project	The project's main aim was to find a suitable piece of land closer to the city in order to develop an industrial estate. This industrial estate will assist in keeping industrial investment within the city boundaries and to curb urban sprawl.
Partners in the project	<ul style="list-style-type: none"> • The Ethekwini Metropolitan Municipality • Anglo American
The role of various partners	<ul style="list-style-type: none"> • The Ethekwini Metropolitan Municipality's role was to provide expertise, and capital. The municipality played a more passive role. • The role of the Anglo American was to provide the necessary infrastructure
The initiator of the partnership	Anglo American initiated the partnership processes.
The value of the partnership to the municipality	<ul style="list-style-type: none"> • The city's project increased the city's tax base, • The project boosted the GDP of the metropolitan municipality, • The city has met its objective in terms of attracting investment into the city, • Job creation in Springfield industrial estate.
Key challenges	<ul style="list-style-type: none"> • Technical issues: addressing complex legal issues in during the negotiation process. • There were complications in dealing with issues of ownership private roads that were within the development site. • Timing of the project on the return for the investment took a while due to the negative trend in the property market. Long-term project
Key lessons	<ul style="list-style-type: none"> • It is important to be able to develop a common ground/vision between the city and the private sector, similar concerns and fears. • Proper human resources, experienced qualified personnel are vital to the process. • The power of municipal official to be able to make decisions is important. • Team work and the level of professionalism in the team is key
Support requirements/capacity building needs	<ul style="list-style-type: none"> • A system to engage and develop private initiatives • Consider the current role of local management committees as required by the MSA

Buffalo City Local Municipality

Based on the interviews, the Buffalo City Local Municipality indicated that they were not involved in any public private partnerships. It was stipulated though during the interview that the municipality made attempts to engage in a public private partnership project that has now be changed. The details of the project are provided below.

Name of the Project	The rationalization of the current waste water and the expansion of the treatment works
Description of the project	The Project was initiated by the municipality in order to rationalize the current provision of infrastructure services within the municipality
Partners in the project	<ul style="list-style-type: none"> • ABSA • Bigen Africa
The role of various partners	<ul style="list-style-type: none"> • The municipality would be the management agent and the private sector would provide the municipal service.

Name of the Project	The rationalization of the current waste water and the expansion of the treatment works
The initiator of the partnership	The private sector initiated the project
Value of the partnership to the municipality	<ul style="list-style-type: none"> The project proved not to be financially viable for the municipality.
Key challenges	<p>The PPP initiative was not implemented because:</p> <ul style="list-style-type: none"> It would take the PPP initiative longer time, i.e. between 12 to 18 months to finalize the agreement and three years to implement the project. The current municipal process will take less time. The partnership would result in increased payment for the municipal services and this will be costly for the disadvantaged communities in the municipality. Political fears and a lack of trust and experience on the idea of private control led to concerns regarding the perceived income generating service to the benefit of the private sector, The fact that the municipality would lose the opportunity of cross subsidization of income generating services to the municipal operation budget of an average of R75 mill Obsession with legal compliance at the expense of real issues of service delivery

Key findings

During the study, it became clear that certain unpronounced assumptions were made between the researcher, the client and the interviewees. The one prominent assumption was the role of PPPs in boosting effective and sustainable service delivery, where a definition of service delivery is not provided. While this can be said to be important and a necessary role/impact of the PPPs, there seems to be an assumption as to how PPPs contribute to this. It was determined from the interviews in the two case studies that almost all PPP projects contributed directly and positively to the economic growth of the municipality either through immediate revenue generation or through boosting the overall GDP of the economy of the municipalities. The positive contribution of the PPPs to the municipality's economy raises questions regarding the extent to which this contribution directly benefits the poor in the municipality, especially with regard to tackling service delivery issues. The imbedded assumption is that the extent to which the municipalities promote economic growth is not regarded as a service delivery issue.

It is important to take note of this finding given its potential impact and the uneasy relationship it appears to have with the blurred concept, at least thus far of service delivery.

The findings of the study must to be understood within the context of the differences between the two municipalities. It was clear during the study and more-so, after the interviews that the differences between Ethekwini and Buffalo City, have an impact on the extent and level to which public private partnerships are being undertaken. In a generic manner, there were issues that were of a main concern only to one city and not the other. An illustration of this can be seen when there is concern raised around the role of the unions in the process of procuring PPPs. While this was raised as a challenge in Buffalo City, it was not mentioned as a challenge in Ethekwini. In fact, Ethekwini indicated that they never had problems with the unions in their PPP processes.

Linked to the concern about the role of unions in the PPPs process was the role of politics. It was raised as a course for concern in Buffalo City but it was also not mentioned as a challenge in Ethekekwini.

It is clear that these two issues raises further questions on either how unions are engaged on PPPs in one municipality as opposed to the other when pursuing PPPs or on how PPPs are understood in one municipality compared to the other.

It can further be deduced from the finding above that these differences provide a valuable insight on the conditions under which PPPs are implemented in the two municipalities. The finding also has implications on the appropriate nature of capacity building or support requirements and interventions on PPPs in the two municipalities which underlies and further emphasises the importance of a differentiated approach.

Timing

It is worth noting that most of public private partnerships that were undertaken by the Ethekekwini Metropolitan Municipality were initiated in the late 90s. This was a period in South Africa where most local government legislation was still underway. After the introduction of most local government legislation, there is no evidence of new PPPs undertaken from the interviews. In fact, the municipal officials interviewed indicated that they were demoralised to pursue PPPs since the introduction of the Municipal Systems Act, the Public Finance Management Act and the Municipal Finance Management Act. While timing is vital, the role of legislation will be unpacked in more detail in the next sections.

The initiators of PPP process

From the case studies above it emerges that both the private sector and the municipality could and have initiated process of embarking on public private partnerships. In most instances, either of the initiators calculated the risk of entering into the partnership. In the case of the private sector initiating the PPP, it was clear that profit maximization was an important factor, while from the municipal perspective, minimizing risk and minimizing expenses were key issues. It could be determined that the feasibility of the two conditions indicated above from the municipality and private were investigated by undertaking some kind of a feasibility study.

These factors did not appear to be of concern to either parties as long as a common vision and a goal could be reached or worked towards in the negotiation process or as long as both parties agrees that they " need each other" as indicated by one of the interviewees. This notion of realising that the two parties "need each other" was regarded by one interviewee as a crucial foundation and a basis for the desire to form a mutually beneficial and sustainable relationship.

After this initiation process, it seemed from the interviews that the process was a fluid and flexible on consisting of intense negotiations and bargaining between the two parties, however, this was the case in point prior to the introduction of the legislation. Since the introduction of the PPP related legislation, it the process is set and seems to cause grief that relief to both parties.

Key enabling factors for successful PPPs

Almost in all interviews, factors that were regarded as key in securing a successful partnership were identified as:

- The ability to have good management skills,
- The ability to negotiate within the partnership formation process and within the overall municipal environment. This negotiation often includes what can be referred to as the skill to juggle between different stakeholders such as the unions and political interests,
- The willingness and ability of both stakeholders to reach a common goal,
- The ability and skills to work as a team,
- Before the introduction of the certain municipal legislations, the lack thereof was seen as an enabler,
- The existence of a leader, a visionary and a long-term thinker.

In essence, it can be said that the municipalities thrived on PPPs when there were little impediments or factors that hindered creativity and innovation.

Challenges in implementing PPPs

The biggest challenges for the initiation and implementation of PPPs were identified as the current legislative requirements. Key specific issues mentioned regarding the legislation were:

- That the legislative process is cumbersome and time consuming,
- That the legislative requirements distracts the focus of professionals from engaging in their professional work to becoming administrators,
- That the current legislative and constitutional setting limits municipalities abilities to earn revenue and to secure PPP deals internationally, such as the ability of the municipality to sell destroyed carbon dioxide gas that falls within the Kyoto Protocol agreement to countries like China,
- That the current legislative process often lends itself to corrupt practices,
- That the current legislation does not appreciate the intricacies of the negotiations that takes place when procuring high profile PPPs, to the extent that it limits the creativity and innovation that can emerge from these negotiations,
- That the current legislation does not take into account the take over processes that needs to be catered for when undertaking huge service delivery PPP projects, such water recycling projects where continuity and a smooth change over is crucial.

Other challenges raised mainly by the Buffalo City Local Municipality were:

- The extent to which unions are concerned about any move by the municipality to be seen to be entertaining privatisation initiatives, and
- The fear of politicians who did not want to be seen to be pro-privatisation by their constituencies. This fear it was indicated was mainly due to a lack of understanding of the concept of PPP.

Other generic challenges mentioned were that:

- There is not clear understanding of the concept of PPP and that it appeared to be a blurred concept,
- There is a lack of capacity from municipal officials to deliver services ranging from the provision of the necessary basic services to enable the implementation of a partnership project, to the capacity of the municipal officials to negotiate for PPP projects.

- The political climate under which some of the PPP deals are pursued may also serve as a threat and a challenge because municipalities may be required to carry increased risks should the project not succeed to political instability.

Capacity building requirements for undertaking successful PPP

Most capacity building requirements were indicated as:

- The need to provide an understanding of the concept of PPPs
- The need to review the current legislation
- The need to building the negotiation, and management skills of municipal officials,
- The need to provide guidance on which projects can be regarded as suitable for PPPs engagement,