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### **The privatisation of the Springs Bus Service by the Springs City Council: assessing impact on service delivery**

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## LIST OF ABBREVIATIONS

CODESA	Congress for a Democratic South Africa
CP	Conservative Party
DBSA	Development Bank of Southern Africa
DRI-Wefa	
EMM	Ekurhuleni Metropolitan Municipality
FNB	First National Bank
GGP	Gross Geographic Product
NP	National Party
SATAWU	South African Transport and Allied Workers' Union
SDRs	Service Delivery Regions

## 1. INTRODUCTION

### 1.1 Problem statement

This report is based on a case study of an existing alternative service delivery arrangement involving the Town Council of Springs and a private bus operator, the Springs Bus Service CC. The findings of this research are an outcome of a three-month in-depth analysis of the Springs Bus Service, which became a fully privatised business entity when the Springs municipality sold it in April 1993. This case study was selected because it is the only model of its kind in the newly formed Ekurhuleni metropolitan area. This form of service delivery arrangement involves the complete sale of municipal assets to a private operator.

The Springs municipal council claims that it decided to privatise the bus service because it was not viable and as a consequence, had to be heavily subsidized. Council projections at the time were that if the service were not privatised it would cost them R21 million over five years.<sup>1</sup> Such steep running costs were perceived to be too high and unaffordable. In addition, some of the bus routes were not profitable and the municipality felt they should be discontinued. Since the provision of transport services by local authorities was seen as a discretionary function, the Springs municipality did not feel obliged to provide the service to all its citizens. Private operators were thus viewed as the best possible alternative way of providing services.<sup>2</sup> At the time of privatising the service, the Council felt that it was best to go for a complete sale of assets in order to reduce the tax burden on ratepayers. It was also under political pressure to privatise, from the Conservative Party (CP), the dominant political force among whites in Springs at that time.

The bus operator was contracted to deliver a service on behalf of the Council for the duration of five years. According to this service delivery arrangement, the Council wanted the bus service to be maintained as far as schools in the Springs municipal area were concerned. In terms of the agreement, the Council and the corporation agreed that the corporation would take over the bus service from the Council and a subsidy was arranged. The old political order in Springs was aware that it would lose its political control after the 1994 elections. One could safely say the intention was to remove an asset from the control of a newly elected democratic government. This was a national phenomenon that was not confined to Springs: it also occurred in other local government areas countrywide.

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<sup>1</sup> Interview with former Town Clerk of Springs Municipality prior to 1994 elections, 08 July 2003.

<sup>2</sup> The thinking in most municipalities before democratic elections was that transport was not a core function at local government level. This has however changed with the advent of the ANC led government that lays emphasis on social policy issues meant to uplift the poor in society.

## **1.2 Scope of study**

In the Springs Bus Service case study, an in-depth qualitative research approach was adopted/utilized. This approach was undertaken in order to understand the reasons for privatisation and the policy or logic behind adopting such an alternative model of service delivery. The aim was to analyse the political motives that led to privatisation of municipal assets as well as why the service was restricted to predominantly white areas. We also needed to understand the impact of privatisation on the quality of service provided by the new bus operator and on the lives of those to whom the service was being delivered. Key informants were interviewed in order to understand the circumstances that led to the current service delivery arrangement. The study also sought to analyse whether the respondents perceived the privatisation to have led to an improvement in the service provided to citizens in the Springs area. The study also intended to understand the role played by the municipality in ensuring that an efficient service was provided to citizens and determine the monitoring mechanisms that were instituted. We also intended to discover how the new service delivery arrangement had impacted on the rights of trade unions, the interests of the Council and the rights of the intended beneficiaries of the service.

Key informants were identified and these included local councillors who were serving in the old Springs City Council when the service delivery arrangement was negotiated prior to the 1994 elections. But few local councillors who served in the immediate post-1994 (1994-1999) Springs City Council could be traced for interviews. A brief note needs to be made that very little official documentation was available on this service delivery arrangement. For instance, the research team was unable to find the original council policy proposals to privatise, including the feasibility study that was apparently undertaken on behalf of the council and which informed the final decision-making on the pre-selection of prospective bidders for the contract. Other informants that were interviewed included the owners of the Springs Bus Service, school principals, pupils who used the service, the department of transport both at provincial and national government levels, and the regional (East Rand) representative of the South African Transport and Allied Workers' Union (SATAWU). We attempted to interview some of the employees of the bus company in order to get a labour perspective of the arrangement but were unsuccessful.

## **2. BACKGROUND INFORMATION ON SPRINGS**

### **2.1 Population and socio-economic profile**

Before local government areas were re-demarcated, Springs was one of 11 municipalities that formed the former East Rand area. After the demarcation Springs fell under the

jurisdiction of the Ekurhuleni Metropolitan Municipality, formed in 2000.<sup>3</sup> Ekurhuleni metro is situated in the province of Gauteng, bordering the metropolitan areas of Tshwane to the north and Johannesburg in the west. The metro was created through the merger of 9 towns: Alberton, Benoni, Boksburg, Kempton Park, Germiston, Springs, Nigel, Brakpan, and Edenvale-Lethabong. The entire metro covers some 1 889 km.<sup>2</sup> Estimates of the population in 2001 put Ekurhuleni at 2 450 092 people and Springs with approximately 250 000 people, making 11 % of the total population of Ekurhuleni.<sup>4</sup> Ekurhuleni is divided into three Service Delivery Regions (SDRs) and these regions represent 88 wards.

Poverty is one of the most intractable challenges facing policymakers in South Africa and Ekurhuleni metropolitan council area is no exception. Statistical indicators show that there are significant levels of poverty in the area and these levels are particularly high among the black racial grouping. For instance, in Springs 41.4 % of the black population lives under conditions of poverty.<sup>5</sup> The major cause of unemployment in this once economically vibrant region is the decline in manufacturing production. This situation calls for the introduction of policies that will ensure that service backlogs in areas such as this are reduced through the provision of essential services like transport. Providing services to predominantly poor areas is difficult because the geographical location of these black residential areas makes them inaccessible. Given these conditions, the provision of public transport is important as it allows for relatively inexpensive commuting to and from areas where jobs are available.

Ekurhuleni is home to a number of manufacturing industries and these production units make a significant contribution to Gauteng's Gross Geographic Product (GGP). Historically, the manufacturing industrial base in the East Rand was developed to complement and support the gold mining sector that was once a major revenue earner in the region before its decline. Ekurhuleni is still one of the most important economically active regions contributing to the wealth of Gauteng. In any economy, transport infrastructure needs to be developed for economic growth to occur. The Ekurhuleni metro inherited a dislocated and fragmented transport network system. More specifically the transport system lacks linkages and this problem has been highlighted in the Gauteng Transport Framework. The province intends to remedy the situation by restructuring the system through the development of integrated nodal routes.<sup>6</sup> The current nature of transport infrastructure limits Springs' accessibility to other towns in the region. Springs is the central point of the Eastern SDR which consists of Nigel, Kwa-Thema, Tsakane, Duduza, part of Benoni, Brakpan and Boksburg, and the Etwatwa-Daveyton area. In addition to this, it is the official government

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<sup>3</sup> The Ekurhuleni Metropolitan Municipality (EMM) was established on 5 December 2000. The Metro aims, among others, to bring uniformity of service delivery in the region, reengineer and integrate structures, resources and finances for a people-driven vision.

<sup>4</sup> These figures are taken from the DRI-Wefa database of 2002.

<sup>5</sup> Ibid.

<sup>6</sup> Interview with official from the Department of Public Transport Roads and Works.

regional centre. Black residents in Kwa-Thema, Tsakane and Duduza are the ones most affected by inadequate transport facilities.<sup>7</sup> This is a legacy of apartheid's separate development system under which black townships were meant to be dormitories for the industrial workforce. These locations were not meant to be economically active hence their positioning at the periphery of industrially productive areas.

## 2.2 Political motives for privatisation

The CP, a white right-wing political party, dominated the Springs City Council prior to the 1994 general elections. Its primary objective was to protect the interests of its constituents who happened to be predominantly white and largely Afrikaans speaking. The CP encouraged the use of the city council's resources for the benefit of mainly white ratepayers. At the time of the agreement, the council comprised of 10 councillors: of these, the CP had seven, the National Party (NP) two, and there was one independent.

The privatisation agreement was put together on the eve of a major change in the South African political landscape. The Congress for a Democratic South Africa (CODESA) negotiations were in progress and it was evident that a new democratically elected government would replace the existing minority-led political system. It was a period of anxiety since most white people feared losing the privileges they had enjoyed for generations. White political parties in South Africa knew that they would lose political power and control to an ANC-led government that would ultimately take control of state-owned assets. White interests were, therefore, at stake and the best way to ensure continuity was to transfer some of these assets to white private service providers at discounted prices. The Springs privatisation deal was a typical example of this approach. In this particular case study, privatisation was meant to ensure that a new government would not have the ability to revoke a council-subsidized bus service that benefited white school pupils and pensioners. This guaranteed racially based service was contractually secured for a period of five years and the new government was legally bound to honour it. The political motive was to ensure that even under the new dispensation, white citizens, in this case white pupils, continued to benefit from a state-subsidized bus service.

All the school headmasters indicated that when the privatisation of the bus service was under consideration, the council did not engage in any consultative activities to ensure that the intended beneficiaries made inputs and influenced the nature of the service delivery agreement that was eventually concluded. Such an absence of broad consultation during the early stages of the process is puzzling, especially given that this was the same period in South Africa's history when a whole range of sectoral and developmental forums at local, regional and national level were being set up to foster a culture of consultation and

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<sup>7</sup> These are black residential areas surrounding the Springs municipal area. Their transport system is poorly linked to central Springs and this restricts the movement of workers and school pupils.

consensus-seeking in policy processes immediately prior to the inception of the first democratically elected government in South Africa. This procedural weakness in the negotiation of the service delivery arrangement ensured that the delivery of municipal bus services was unresponsive to the needs of customers and it reinforced the lack of accountability to service users that appeared to have been built into this service delivery arrangement.

### **2.3 Process leading to privatisation**

The driving force behind the privatisation of the Springs bus service was the Springs Town Council's Management Committee, which comprised five Heads of Departments with the Town Clerk as leader of the negotiating team. In a sense, the Council pushed the privatisation agreement that culminated in the signing of a contract in 1993. Interviews suggest that the tendering process was not transparent because by the time the Council called for tenders it had already identified and approached a potential buyer. The consultation process had serious flaws. It was clear that the Council decided to ignore major political changes that were occurring around them at that time. The mood called for consultation and public participation; it was a time when the country was negotiating for change. In the then East Rand, public participation was provided for in the East Rand Regional Development Forum where civil society organizations participated in regular policy processes. Such developments should have, at least, encouraged the Springs municipality to call for public participation in negotiating the privatisation of the bus service.

Democratic practices were deliberately overlooked. Interviews reveal that powerful individuals within the Management Committee of the council concluded the deal. After the privatisation agreement was signed, First National Bank (FNB) provided the credit for purchasing the buses. It appears that only a small number of players participated in the negotiations process and these came chiefly from the white political forces involved in the running of the Springs City Council. Clearly, many key stakeholders were excluded and therefore the whole process was not transparent.

## **3. ASSESSING THE IMPACT OF THE SERVICE DELIVERY AGREEMENT**

This section provides an assessment of the privatisation agreement between the Springs Town Council and the Springs Bus Service. It relies mainly on interview material and the contract document. It analyses issues of compliance, enforcement and the monitoring of the service delivery agreement. The section also discusses what has been achieved through privatisation and explores benefits accrued to users of the service. It assesses negative outcomes that were experienced through the implementation of the privatisation agreement.

### 3.1 Key provisions of the contract

It has already been stated that a CP-controlled city council shaped the privatisation agreement. This was a government whose interests were totally different from those of a new democratic state whose goal was to address past inequalities and reduce the huge service delivery backlog. The outgoing government was aware of this difference in policy objectives and crafted the agreement in such a way that the incoming government could not change the contract. Therefore, privatisation ensured, in essence, a continuation of the racially segregated bus service to the same white customers. This was to ensure that the newly elected government could not terminate the council subsidised bus service for white school pupils and the aged in the Springs municipal area. The new democratic government had no legal power to alter the terms of the agreement. Instead, it had a contractual obligation to honour the privatisation agreement.

In order to facilitate the process of privatisation, the municipality engaged a group of consultants. The privatisation department of the local FNB was commissioned to conduct a study that led to the development of the terms of the privatisation agreement.<sup>8</sup> This document outlined three types of specific agreements: a privatisation agreement, a credit agreement and a lease agreement. One of the terms of this agreement was that the bus service be maintained for the white schools in the Springs municipal area, while the general commercial bus services could be phased out in respect of non-profitable routes.<sup>9</sup> This provision suggests that the profit motive was being emphasized more than the quality of service except in the case of white schools. There was also a credit purchase agreement for the purchase of the 45 buses and other vehicles, furniture and other requisites. The privatisation of the bus service was also linked to the leasing of a bus depot and the terminus from the council.<sup>10</sup>

The agreement was also clear in terms of the extent of the bus service. One of the provisions obliges the new operator to run the school bus service with a fleet of 26 buses, the same number that the council provided at the time the agreement was concluded. However, the operator could decrease this number as long as such an act did not affect the standard of service provided.<sup>11</sup> These provisions ensured that the bus service for white pupils continued uninterrupted for the next five-years. The agreement also specified, by name, the schools that were to be provided with the service; there were nineteen in total. This was clearly to ensure that no other schools could be provided with the service. In as far as servicing other routes that were previously serviced by the Council, the new operator could withdraw from unprofitable routes provided this did not affect the provision of service to

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<sup>8</sup> Interview with former Town Clerk, Springs City Council, 08 July 2003.

<sup>9</sup> Privatisation agreement, 1998; 3(3.4).

<sup>10</sup> Privatisation agreement 1998; 3(3.5).

<sup>11</sup> Privatisation Agreement 1998; 6(6.1.2).

schools. The provision of a subsidy in respect of the bus service rendered by the corporation is also included in the contractual document.

The municipal bus subsidy granted to the new Springs Bus Service was one of the important clauses in the service delivery agreement. It is important because it ensured that the operation was viable for a five-year period and that there was continuity and an uninterrupted service provided to white school pupils in Springs. Under the subsidy clause, the Council undertook to pay the corporation a subsidy of R 602 865 between 2 April 1993 and 1 April 1994.<sup>12</sup> Thereafter, the subsidy would continue annually for the five-year duration of the agreement but in decreasing amounts every year until July 1998. The fact that the municipality abdicated its responsibility shows that there were no key role players from the labour movement.

Under the Springs privatisation contract, approximately fifty employees were transferred from the Council to the corporation from April 1993 to 1 July 1993. These were classified as 'group 1' and 'group 2' category employees and the Council undertook to pay their salaries for this three-month period, after which the new bus operator could dispense with these employees, if it so wished. The Council granted the corporation the capacity to negotiate conditions of employment with the transferred employees. It seems the municipality decided to play no role in negotiating the new conditions of service for its transferred employees, it left it to the private sector operator. In the absence of the involvement of transferred employees, the new bus operator was placed in a strong negotiating position. In any privatisation exercise, labour matters are a source of contention; hence a concerted effort needs to be made to ensure that basic conditions of service are provided for.

The provisions of this contract ruled out the possibility of extending the service to other areas that were not serviced, such as the townships of Kwathema and Duduza. This suggests that the contract was there to safeguard the interests of a small minority grouping. This made it impossible for the new government to demand that the service be extended to these surrounding areas, as logic would dictate, since a municipal subsidy was being used to provide the service. Furthermore, the new operator could not be forced to extend his service because under the contract he had the right of first refusal in any intended extensions of the bus service to other areas.

### **3.2 Compliance with the contract**

This subsection analyses the enforcement, monitoring, evaluation and regulatory measures aimed at ensuring that the Springs Bus Service complied with its obligations as stipulated in the agreement. It also assesses the role the municipality played in ensuring the provision of

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<sup>12</sup> Privatisation Agreement 1998; 12(12.1).

effective service delivery to citizens. The service delivery agreement contains little on the obligations to be met by the service provider. One of the specified requirements is that the corporation shall see to it that all buses used for transporting passengers are at all times in a roadworthy, clean and neat condition. The corporation was also expected to allow all buses to be inspected at least once every three months by the Council's testing officer at the Council's testing grounds. If a vehicle was found to be un-roadworthy, it would be immediately be withdrawn from service. All inspections were to be done at the expense of the Council; the corporation would only pay for inspection if this coincided with the mandatory six-monthly testing.

One specific requirement the corporation had to fulfil was to furnish the Council monthly, with income and expenditure statements. According to our knowledge, the Springs Bus Service never provided any of these statements. Council could call meetings with representatives of the corporation to discuss these statements. Council's casual approach to matters relating to financial and managerial control is surprising since ratepayer's money was being used to fund the subsidy. The Council was actually shouldering the financial risk for the Springs Bus Service. Due to the absence of monitoring mechanisms the expenditure of the subsidy could not be monitored. It leaves one wondering how Council reported back to relevant portfolio committees about the expenditure of public funds by the corporation.

To enhance compliance, the Council did not require the submission of periodic or quarterly reports, as is the case in some service delivery arrangements. The bus operator informed us that he was not required to submit any reports.<sup>13</sup> However, he was expected to attend periodic meetings to discuss problems with the Council. Initially, periodic meetings were held formally but as time went by the meetings became informal and irregular and eventually stopped. In the Springs partnership arrangement there was no regulatory body to ensure compliance. The only regulatory mechanism was that of fulfilling licensing requirements, like any other transport operator as stipulated by the Provincial License Board, which regulates tariffs.<sup>14</sup> Therefore, the Springs municipality had no role in regulating the activities of the corporation, including the setting of tariffs.

The bus operator was not monitored by anyone to ensure that customer satisfaction was achieved. As mentioned, the operator could also set tariffs without consulting the council, although this was done in line with guidelines from the Department of Transport. The municipality did not set any performance standards for the new service provider. Although this service delivery arrangement was weak and unfavourable to the Council, this situation should not be interpreted that the erstwhile municipality was a poor negotiator; this is how it was intended to be. Research indicated that the current Springs Town Council had very little control over how the new operator ran his business. It had no effective mechanism in place (apart from the monthly financial reports, which it did not enforce, and the irregular

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<sup>13</sup> Interview with owner of Springs Bus Service, 30 June 2003.

<sup>14</sup> Interview with Acting Director of Public Transport, Ekurhuleni Metropolitan Council, 07 July 2003.

meetings which it eventually discontinued) to ensure effective service delivery to citizens. There was complete absence of monitoring, regulation and evaluation of the operations of the Springs Bus Service.

The absence of monitoring and evaluation of the operations of the Springs Bus Service raises many questions about the ability of the municipality in ensuring that the beneficiaries of the service are provided with an effective and affordable service. Furthermore, it is not clear whether it was possible to address issues of democratic accountability and effective service delivery under such conditions. Transport was not seen as a social responsibility of Council at the time. It was a discretionary function that the Council decided to hand over to the private sector.

This model of alternative service delivery does not seem to be popular with the rest of the Ekurhuleni metro who prefer to corporatise their assets.<sup>15</sup> What appears to be attractive about the approach of corporatising of municipal assets is the fact that local authorities are left with some degree of control over the way in which services are delivered to citizens. Corporatisation also allows municipalities the latitude to continue playing their role in the domain of social responsibility. In the Springs privatisation experience, the municipality was left with no power to influence service coverage in terms of routes and the level of tariffs charged to citizens. The municipality did not have a say in the quality of service delivered to the population by the operator. These structural limitations of the municipality meant that they could not ensure that the service was extended to areas where the majority of black people resided.

### **3.3 Impact on key stakeholder interests**

This section reports on, and analyses some of the views and perceptions of a number of key stakeholders regarding the consequences and impact of the service delivery arrangement, including the quality of services provided by the Springs bus service to the schools. The section also discusses issues regarding the relations between the service provider and some of the key stakeholders, focusing on the problems arising from a lack of properly defined roles and responsibilities for the municipality and service users and the implications for accountability and good governance. Interviews were conducted with a range of stakeholders, including Ekurhuleni local councillors and council officials, councillors from the old Springs City Council, representatives and pupils from some of the schools in Springs that used to receive regular bus services, and government officials at national, provincial and local levels. A regional representative of SATAWU was also interviewed to provide a labour perspective of the issues raised by this service delivery arrangement.

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<sup>15</sup> Interview with City Manager, Ekurhuleni Metropolitan Council, July 2003.

It needs to be repeated that when the bus service was still owned by the Springs City Council, it was funded and operated for the benefit of white citizens only. This meant that transport services were provided for ordinary white passengers within the boundaries of the town of Springs, and the service excluded blacks from the surrounding townships, informal settlements and farm areas where significant demands for an affordable, reliable and effective public transport system were enormous and are still significant today.<sup>16</sup> However, the subsection below looks at the transport services that were being provided to school pupils and perceptions, not only about its effectiveness and efficiency, but also about the motives and politics behind such an arrangement.

### **3.3.1 *Impact of the arrangement on labour interests***

As indicated already, despite several attempts we were unable to gain access to the labour component of the Springs Bus Company to elicit their perspective on how the service delivery arrangement had affected their interests, particularly their conditions of service. Therefore, this analysis derives mainly from information obtained from a number of sources: interviews conducted with the Springs office of SATAWU, interviews conducted with councillors from the old (pre-1994) Springs City Council and an in-depth analysis of the privatisation contract.

The SATAWU representative was asked to express the union's official position on the privatisation of the Springs bus services as well as the service delivery arrangement between the bus company and the Springs City Council. The informant expressed SATAWU's disapproval of the privatisation decision, insisting that this hampered the ability of council to fulfil its primary responsibilities towards providing an affordable, publicly funded bus service to the poor communities of Springs. On labour-related matters no guarantees were granted to employees who were transferred from the municipality to the private operator, as is normally the case in privatisation agreements. The agreement did not go into great detail on labour related matters, especially in relation to conditions of service and job guarantees. According to an interview with the owners, employees inherited from the council were given two options: either to be transferred to the new operator or to remain with the Council. Almost all drivers were taken over by Springs Bus Service and the Council absorbed those who were not willing to be transferred. The employer, however, claims that there were no retrenchments because so few employees were involved; only about fifty people were affected by the sale of assets. The agreement simply specifies which employees in 'group 1' and 'group 2' would be made available to the corporation from 1 April to 1 July 1993, a three-month period. In addition to this, the Council would pay the salaries of those employees whose service the corporation would make use of.

The corporation was granted the right to negotiate conditions of service for those employees who were retained after the three-month period had expired, even though the municipality would continue to pay their wages. The municipality had no role in influencing the conditions of service for those employees who were transferred to the new service

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<sup>16</sup> The Ekurhuleni Integrated Development Plan, 2002-2007.

provider. This responsibility was left entirely in the hands of the new employer. Under such circumstances it is not common for an employer to offer unfavourable conditions of service, especially if a legal expert was not involved in structuring such conditions of service.

This arrangement seems at odds with the normal privatisation model; indeed, this model amounts to an additional subsidy to the bus company, since it was also receiving labour for free. It is especially puzzling since whatever conditions of service were granted to these workers would have a direct financial impact on the council. Public employers, funded through the public purse, were being used to man a privatised service, yet the council had no say over both the conditions of service of these employers or any part of the actual service. It is difficult to see either what the advantages of such an arrangement were for the council or why the post-1994 council did not challenge it on ethical grounds.

This is a situation that raises some concerns because in all cases that involve alternative service delivery, labour issues are a source of conflict and hence are always given priority. In this case the service delivery agreement is silent on conditions of service. It is therefore clear that employees were negotiating from a position of weakness. Interviews with a SATAWU representative suggest that the union did not favour the new service delivery arrangement since the rights and interests of their members were not properly negotiated.<sup>17</sup>

SATAWU's view is that the decision to privatise had negative results mainly because it did not benefit the poor people in the surrounding areas of Springs municipality. The union claims that labour-related matters were largely neglected in the agreement because job guarantees were not provided for in the deal. SATAWU is also concerned with the way in which the routes were cut and the service terminated by the provider. It feels that no proper consultation was made and the termination of service had a negative impact on jobs. The respondent believes that the owner's decision to redefine his routes and terminate service in others were profit driven. He decided to relocate to more profitable routes since he won lucrative contracts with major mining customers that included Zincor, Impala and Platinum mines. Labour suggests that the municipality should not have relinquished its control of the bus service. Rather than opting for an outright sale of assets, Council should have gone for corporatisation, as this would have allowed it to maintain some degree of control.

SATAWU argues that the services provided by the bus company under the service delivery arrangement were inequitable as they were intended to benefit a small section of the entire community of Springs and the surrounding townships. Also SATAWU insists that the quality of the services provided was poor but given that this was a privatised company, the ability of the current council to foster democratic control over the provision of the service was severely limited. However, the union did indicate that the bus company was not averse to the unionisation of its workers. The SATAWU regional representative interviewed for the study indicated that the union has been able to

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<sup>17</sup> Interview with SATAWU Representative, 05 July 2003.

interact with the bus company on a regular basis when the need arose, suggesting that the privatised bus service was not anti-labour union.

### **3.3.2 Perceptions of impact from the pupils and schools**

As indicated above, the service delivery arrangement provided no precise service targets and specified no performance indicators for the service provider to meet. It also failed to set up any monitoring and evaluation mechanisms to ensure that specific policy goals were achieved through this arrangement. In the light of this, the Springs City Council interviewed stakeholders from the schools around Springs to understand their assessments and perceptions of the quality of services provided by the Spring bus service during the five years of subsidies. By 'quality of service' we mean reliability of the service at all times, the promptness, arrival at specified pick up and drop-off points, cleanliness and technical/mechanical soundness of the buses. The contract specified that during the five years (April 1993 to April 1998); the city council of Springs had contracted the privately owned Springs Bus Service to provide transport services to a defined group of customers. These were white pupils attending the formerly 'whites only' primary and high schools, special schools and other types of schools in the town of Springs.

While the subsidized services to these schools were clearly meant for white school pupils, it appears that as some of the schools became racially mixed and black pupils began entering these schools, the bus service became gradually accessible to a very small number of black pupils. However, the numbers of black pupils using the bus service inside old Springs were insignificant, because most of them came from townships outside of Springs where the bus company was not operating. Black pupils from these townships mainly used mini-bus taxis for their school trips to and from the town of Springs. A Development Bank of Southern Africa (DBSA) research report produced in 2000 places the figure for black pupils using the bus service at 20 % of all users of the school bus service.<sup>18</sup> However, it was not clear whether or not this percentage related to the entire period of the contract between 1993 and 1998.

During the research study, a number of interviews were carried out with a number of headmasters, teachers and school administrative personnel in charge of transport services. These interviews revealed a mixed picture. During analysis of the interview material, the perceptions of respondents from the schools were categorized into the poorer and the more affluent schools. The poorer schools were more inclined to indicate that the quality of the bus service was satisfactory. There were higher levels of satisfaction with the reliability of the service, promptness of the buses and timeous arrival at pick-up and drop-off points. These schools were also more satisfied with their relationship with the bus company. For instance, in addition to in-depth interviews, a group interview was carried out with a group of ten pupils at Olympia Park School in Springs. The pupils were generally happy with the services they received from the Springs bus service, including tariff levels. However, most of the pupils in the school received transport subsidies from the school. The subsidies are,

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<sup>18</sup> DBSA. 'Impact of public-private partnerships on the poor: the South African Experience.' 2000: 32.

apparently, drawn from funds provided by the provincial government. This protected most of these pupils from paying the full tariffs. The school receives a total of R 300 000 per annum from the provincial government, some of which is utilised to assist pupils from poor families to cover the cost of school bus transportation. However, the status of this financial assistance to the pupils from their schools was not entirely clear, nor its justification, given that the bus service was already receiving substantial subsidies as part of the service delivery contract.

In contrast, perceptions from the more affluent schools in Springs were markedly different. Generally, these schools complained about the quality of the service, especially its unreliability during periods of school examinations. During this time, the normal school schedules are usually altered. The problem here appears to be that during such periods, the bus company did not allow for a measure of flexibility in its own schedules. Several respondents identified this as one of the problems experienced with the service. It appears also that the scheduling of bus services and timetables was usually done without consultations with the schools and their governing bodies. Many respondents from the schools identified this lack of broad consultation by the bus company as a problem. This suggests a weakness by the service provider in terms of fostering effective customer care and service provider-user relations. This also reflects the lack of attention to issues of customer care and principles of democratic accountability in the service arrangement.

Many schools also indicated that the Springs City Council did not assist through interventions to deal with the unreliability of the service and lack of consultations in the drafting of bus schedules to suit schools timetables. All this was exacerbated by the fact that the service delivery contract did not specify a clear set of indicators against which to judge performance and quality of services to be provided. As a result, the schools had no objective and systematic way of judging whether or not the company was fulfilling agreed service levels and service standards. Many schools were also uncertain about whether or not they could insist on the municipality intervening on their behalf to ensure higher standards of service delivery by the service provider. For instance, it appears that despite the contract stating that the bus company was committed to maintaining certain standards of service, this was very vague and, therefore, unenforceable in practice. As a result, over a period of time the bus company gradually reduced the number of buses to the schools from the original 26 to less than five, especially towards the end of the contract period.

Thus almost all the school head masters interviewed for this study argued that the running of the bus service was determined mainly in accordance with the commercial interests and priorities of the service provider. It was not based on seeking the inputs and opinions of the service users on a regular basis. There were no mechanisms or formal processes to allow the schools to make inputs into the decision-making processes and determine levels of services in accordance with their priorities. As a result, there were no proper and effective customer-service provider relations' processes to ensure that the subsidised services to the schools were sufficiently responsive and accountable to the needs of customers.

The bus owner confirmed that there were no consultative or public participatory mechanisms in place to deal with service user complaints. The contract was also silent on this. It meant that the principle of accountability was lacking in the service delivery arrangement. There was no formal and systematic way of ensuring that the service provider regularly obtained feedback from customers on the quality of the service, with an obligation to act on them. When asked how customers conveyed their complaints and grievances regarding the quality of the bus service, the owner argued that the local newspapers and the company phone numbers were available as channels for citizens to express their views. However these were not part of a formal and systematic process that guaranteed that the grievances and complaints of service users would be dealt with. The owner was, therefore, not under any formal obligation to seek out or receive and deal with customer complaints in an effective way as part of his contractual obligation for the subsidy received from the council. Therefore, this service delivery arrangement was not conducive to promoting maximum service user participation in decision-making processes, and failed to even guarantee that the Council would intervene on behalf of citizens in case of a decline in the quality of service delivery.

### ***3.3.3 Impact on the interests of the Springs municipality***

While the privatisation contract makes provision for some form of regular interaction between the service provider and the Springs City Council, it did not provide for an effective operational interface and, therefore, limited the involvement of the council and councillors in the provision of the bus services. Interviews carried out with several former councillors from the old Springs City Council and the post-1994 (1994-1999) Springs City Councillors indicated that in practice no formal and regular meetings took place. As a result of this lack of regular contact between the service provider and the council as the client and service authority, the ability of the local councillors to enforce compliance with service delivery obligations was weakened. In other words, the ability of the local council to bring political pressure to bear on the service provider to account regularly for its service delivery activities was non-existent.

However it appears that this was not necessarily due to lack of institutional or administrative capacity on the part of the post-1994 ANC controlled Springs City Council. It is clear that having been negotiated and concluded prior to the 1994 political dispensation by a white, conservative and right wing political party that controlled the Springs City Council, the contract obviously addressed a different set of political, economic and financial priorities that did not matter as much to the new post-1994 government. The old regime in Springs prior to 1994 was not concerned with the new pro-poor social policy agenda of the new post-1994 government.

When asked why there was this lack of regular operational interaction between the council and service provider, as well as the absence of active monitoring and enforcement of compliance, the responses of council officials from the current Ekurhuleni metro suggested that there was no urgent need or perceived political and service delivery benefits that would

have been gained for the wider community of Springs, especially the poor who were not the intended beneficiaries of the service delivery arrangement. It appears that the post-1994 Springs City Council perceived that none of its political and socio-economic responsibilities were served by the service delivery arrangement inherited from the old regime. Therefore, there was no urgency to put pressure on the service provider or fulfil the council's monitoring and oversight responsibilities to ensure compliance, accountability and a high quality of services.

Some councillors argued that for the post-1994 government, the plight of the poor and previously disadvantaged black households had to be prioritised. There was a clear perception that the service delivery arrangement was racially exclusive and inequitable, and that the post-1994 council could not legitimise it by ensuring its successful implementation. Nonetheless, the post-1994 council felt legally bound to honour it to the end. The new councillors felt that the subsidy had to be paid until the expiry date of the contract. Only then would council resources be redirected towards other more deserving beneficiaries and areas with enormous social service backlogs.

Politically therefore, it appears that the new council did not feel concerned about the performance, effectiveness and efficiency of the service provider as the services being provided were seen as primarily benefiting a small section of the population of Springs which was considered privileged. Two council officials from the current Ekurhuleni metropolitan administration argued that the post-1994 council considered the service delivery arrangement with the Springs Bus Service 'a lost cause', meaning that the council could not do anything about it because the provisions of the contract made it virtually impossible for the council to renegotiate new terms or demand the service provider assist in meeting some of the council's new social policy responsibilities towards the poor. One council official said, "there was nothing we could do, so we did nothing." The official argued further that any attempt to renegotiate the terms of the contract would have meant additional subsidies to the service provider and, based on interviews with some of the councillors and council officials in Ekurhuleni, this would have been politically undesirable, given the limited resources and the social service backlogs in other areas. The council officials also indicated that even the option of buying the bus service back to ensure equitable provision of municipal bus transport services to everyone within Springs and the surrounding townships, would have been too costly and politically unjustifiable.

#### **4. ISSUES ARISING FROM THE SERVICE DELIVERY ARRANGEMENT AND TYPE OF CONTRACT**

The privatisation contract underpinning the service delivery arrangement was inherited from the old Springs City Council. An analysis of the privatisation contract, combined with the interviews conducted with former and current councillors, council workers and the owner of the bus service, suggests that the privatisation of the bus company was not necessarily

underpinned by the need to improve the quality of service provision to the poor and therefore enhance accessibility and affordability to all citizens in Springs and the surrounding townships. The research team did not find any evidence to suggest that the old council was convinced that privatisation was an appropriate policy response to the need to improve efficiency and effectiveness in the provision of a municipal bus transport service to the citizens of Springs and its surrounding townships.

Also, the contract does not spell out any key policy objectives to be achieved. Interviews conducted with former councillors from the old council also failed to relate the contract to any set of broader social policy objectives and responsibilities. The nature of the contract is not aligned with some of the enormous socio-economic and developmental priorities of the democratically elected, post-1994 government. The issues and challenges at the top of the priority list of the new government such as the need for municipal infrastructural investment, equitable and non-segregated service provision, local economic development, and the participation of beneficiaries and other stakeholders in decision-making processes and the determination of service priorities, are not catered for under the contract. This suggests that such issues were not as important for the old council that negotiated the service delivery arrangement at that time as they are for the new government. Also, the post-1994 Springs City Council, and subsequently the Ekurhuleni Metropolitan Council, faced and continues to face daunting social policy and service backlogs, especially in providing publicly funded, affordable and effective municipal bus transport services to the poor and formerly disadvantaged communities. However, the contract seriously constrained and limited its ability to fulfil some of these key social policy priorities, as it did not allow for easy renegotiation or modification of provisions of the contract to make it more relevant to the post-1994 political and social policy environment.

As argued already, the contract places no requirements or responsibilities on the service provider to contribute concretely towards council's fulfilment of its social policy responsibilities. For instance, the service provider was not required to upgrade any of the transport facilities and infrastructure at his disposal. He was also not under any legal obligation to submit service progress or performance reports to indicate any concrete improvements in the provision of services to customers. One significant requirement that the service provider was obliged to meet was to submit to council monthly statements that reflected the company's financial position, including monthly income and expenditure. However, there is no evidence that this was ever done. Also, the exact purpose of this requirement was not clarified in the contract. In fact, a further provision of the contract requires that such monthly income and expenditure statements submitted to council "shall at all times be treated in the strictest confidence by council." Also, no sanctions were spelt out in case of failure to disclose such information to council. This suggests therefore that the key principle of transparency, usually identified as one of the key cornerstones and an important requirement for effective public-private partnerships in municipal service delivery, was not important for the old Springs City Council.

It appears that the primary intention of the former council was to achieve two key objectives with this contract, one political and one financial. In terms of the political objective, the decision to privatise ensured that the bus service was taken out of council ownership and placed in private hands, thus depriving the new government of an economic asset that could be used to serve the interests of all residents in Springs and the surrounding townships, not just the old council's white constituency. Also, by locking the post-1994 government into a subsidy agreement that benefited mainly white school pupils, the former CP-controlled Springs City Council ensured that the interests of its constituents were safeguarded well into the tenure of office of the post-1994 government. One former councillor interviewed for this study argued that the CP, seeing 'the writing on the wall', wanted to make a political point by looking after the interests of its constituents. The councillor argued that on the one hand, the CP did not want to see blacks using the bus service. On the other, it did not want to see the residents of Springs and its former white suburbs continuing to pay taxes and rates to subsidise the operation of a council-owned bus service.<sup>19</sup>

The financial objective that the former Springs City Council sought to achieve was to get rid of a loss-making state enterprise. As indicated already the Springs bus service was incurring an annual loss of about R 2 million. All the former and current councillors interviewed for the study argued that the service was being provided for a small, white residential market that was rapidly shrinking due to increasing private car ownership among this section of society. Respondents argued that the majority of the white residents of Springs and its surrounding suburbs did not utilise a council-subsidised bus service to the full, which explains why the buses were always running empty. It was increasingly being utilised merely to deliver white school pupils and a very small number of white old-aged pensioners to libraries or to clinics and hospitals in town. Therefore, the usually empty but heavily subsidised buses were incurring increasingly huge financial losses for the council, which underpinned the decision to privatise.

A former councillor argued that while incurring such losses to the council, the buses could not be opened to paying black passengers due to the nature of the political system in place before 1994. The respondent argued that allowing black passengers to utilise the service at that time would have helped the company generate some of its own income from user fees and curb some of the financial losses to the council by relying less on council deficit spending.

However, in getting rid of a loss-making enterprise, the old Springs City Council also made sure that the new owner was not obliged as part of the privatisation contract to uphold or even improve the service levels that were being provided when the bus service was still owned by the council. While the privatisation contract does contain a provision committing the service provider to making available the same number of buses (ie 26) to schools as the

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<sup>19</sup> Interview with former Local Councillor, Springs City Council, 15 August 2003.

old council did, another provision allowed the company to reduce this number “without affecting the standard of service.”<sup>20</sup> However, no requirement is built into the contract to ensure that the service provider consults widely before reducing the number of busses. This meant that the service provider had the option of arbitrarily reducing the number of busses serving the schools for any reason whatsoever without the obligation to consult the city council or service users. What this suggests is that the service delivery arrangement placed the council in a very weak position, ensuring that it was unable to protect the interests of service users against arbitrary service related decisions by the service provider.

The service delivery arrangement placed no requirements for the service provider to make any infrastructure investments or improvements to existing facilities, including the bus depot leased at extremely low rental rates from the council. Also, the service provider was not required to extend the service to previously disadvantaged customers in the townships around Springs. This suggests that the council was not overly concerned with improving the provision of the service. To add to this, the contract contains no performance indicators and does not specify any outputs or outcomes for the service provider. It does not set clear, enforceable standards for service provision or mechanisms and procedures for monitoring and evaluation. These omissions weakened the ability of the post-1994 Springs City Council to enforce or insist on the achievement of any broader developmental policy objectives.

As already argued above, an analysis of the contract and interviews with former councillors in Springs prior to 1994 does not indicate how important the privatisation model and the role of the private sector were to the old council, especially as instruments in the efficient provision of municipal services. In fact, the notion of partnership does not appear either in the contract, or the rhetoric of councillors from the old Springs and the owner of the bus company. Interviews conducted with a range of respondents did not provide sufficient information to conclude that the decision to privatise was taken on the grounds that this would bring some key benefits that are usually associated with involving the private sector in municipal service provision. The benefits and goals that are usually claimed for involving the private sector include streamlining municipal functions, efficiency gains, financial savings, enhanced effectiveness in service provision, accessing better managerial capacity and expertise, access to private sector financial resources, transparency, enhanced accountability as well as improving customer care and service provider-customer relations.<sup>21</sup>

In all our interviews, none of the former councillors who participated in the privatisation of the bus service mentioned the perceived benefits of private sector involvement. It appears that the key financial motivation was the need to off-load a loss-making council enterprise to the private sector as well as placing it beyond the grasp of the on coming post-1994 government. This may suggest the greater importance of political considerations at that

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<sup>20</sup> Privatisation Agreement 1998; 6(6.1.2).

<sup>21</sup> Solomon D. ‘Private Sector Participation in the Provision of Municipal Infrastructure’ Presentation at University of the Witwatersrand, 1998.

time in the decision to privatise, especially given that the contract was signed exactly a year before the elections for the new democratic government in 1994.

## **5. CONCLUSIONS AND KEY LESSONS FOR POLICYMAKERS**

Based on the findings of this study, we conclude that the privatisation of the Springs bus services did not adequately serve the best interests of both the old Springs City Council and the newly-established Ekurhuleni metro on the one hand, and the interests of the customers in Springs and the surrounding townships, on the other. The service delivery arrangement was intended not only to serve the interests of one small section of the community of Springs, but also to serve the short-term political interests of the old political role players in control of the Springs City Council, at the expense of equitable, accessible and affordable service delivery to all the people of Springs, its surrounding townships and other impoverished communities.

We conclude that while the desire by the old Springs City Council to get rid of a loss-making enterprise played an important part in the decision to privatise the delivery of municipal bus services, the central motivation for this decision appears to be the short term political consideration to sell off a valuable public asset in order to remove it from state ownership ahead of the new democratically elected government that was scheduled to take over in 1994. This conclusion is made in light of the fact that the decision to privatise was taken almost a year prior to the inception of the new democratic government. Also, there was a secondary desire to protect the residents of the former 'whites only' town and suburbs of Springs from paying taxes and therefore subsidizing a loss-making bus company owned by the municipality. In addition, the process that led to privatisation failed to consult broadly, thus ignoring the numerous transitional participatory structures, including the East Rand Regional Development Forum, that served as a local consultative policy mechanism for legitimating such decision-making processes.

The model of privatisation as a tool for delivering bus services in Springs also failed to take into account the momentous socio-political and economic policy changes that were occurring in the context of the transition from an undemocratic government to a popularly elected government between 1990 and 1994. During such a process of transition, notions of public participation, accountability, responsiveness and transparency in decision making were being elevated to important principles underpinning the legitimacy of the new order. The service delivery arrangement between the old Springs City Council and the Springs Bus Company failed to take these principles into account. Also, the fact that once the service was privatised the municipality had no power and authority to influence the direction of the service delivery process, and also the absence of formal processes and procedures to enable customers to make inputs into the process of service delivery, further limited the impact of this model.

The service delivery arrangement was not based on the objective of improving the quality of bus transport services to customers, especially the poor in Springs and surrounding townships, one of the traditional justifications for bringing the private sector in to the provision of services to customers on behalf of local authorities.

In this service delivery model, undue attention was given to securing the commercial interests of the service provider, thus ensuring that the profit motive rather than the need for accessible, affordable and equitable services to the poor influenced the levels of services provided. For instance, the contract clearly allows the service provider to phase out any unprofitable services or withdraw from any unprofitable bus routes that used to be served when the bus company was still owned by the city council.

A number of lessons can be drawn from this case study. In any process of negotiating a service delivery agreement, a municipality should assemble a strong negotiating team that understands the dynamics of public-private partnership relationships. This will ensure that the negotiated contract will safeguard the interests of the municipality and customers rather than pay undue attention to the interest of the service provider, as was the case in the Springs Bus Service contract. A strong negotiating team can only be put in place if all relevant stakeholders are included in the process. All interests and needs of such stakeholders should be considered and factored into the contract. This requires the council to engage in consultative activities widely to ensure that targeted beneficiaries air their views about the type of service delivery suitable for them. It is, therefore, essential to put in place a consultative and public participatory mechanism to ensure inclusiveness and buy-in.

Service delivery arrangements should be designed in a way that enables municipalities to fulfil their obligations and responsibilities towards their ratepayers. The agreement should not be so restrictive that a municipality fails to implement some of its social policy responsibilities towards the poor. The concluded agreements should provide enough room for municipalities to review the terms and conditions of the contract to ensure that it takes into account changing regulatory and socio-economic circumstances. The current government has a major socio-economic and developmental agenda; that is to reduce historical social service backlogs created over years of inequitable distribution of resources. Local authorities are mandated by national government to play an important role in remedying this situation. Therefore, they should not be hindered unduly from fulfilling this responsibility.

Clauses in the service delivery agreement should not be cast in stone as appears to have been the case in the privatisation of the Springs bus service. As far as possible, some flexibility needs to be built into the agreement to enable the contracting partners to review, and if possible renegotiate, the terms of the contract at certain periodic intervals. Such flexibility would allow a municipality to revisit an agreement and reshape it in line with the current or emerging social responsibilities that need to be addressed through the service delivery arrangement. Under the provisions of the Springs privatisation agreement, the newly elected democratic government could not renegotiate the agreement to address such emergent policy priorities.

The service delivery arrangement left the Springs City Council to bear a significant proportion of the revenue risks of the operation through the provision of a large subsidy to ensure that the service did not collapse during the five-year duration of the agreement. This suggests the need for local government negotiators to familiarize themselves with important aspects of service contracts, including the sharing or allocation of risks and rewards between the partners. Any service delivery contract that places undue risks on the public partner undermines the basis of such service agreements if the objective was to draw in the financial resources of the private sector into the achievement of public policy objectives. In this case, despite the council providing a large subsidy to the service provider, it had no control or influence over the way the service provision was undertaken.

Finally, a major lesson that has been learned is that full-scale privatisation creates a whole range of blockages and restrictions for municipalities. As a result, policymakers in the Ekurhuleni Metro appear to have taken a policy stance to abandon this model of service delivery in the future. It appears policymakers in Ekurhuleni will more readily embrace corporatisation in future as a more attractive and viable model for delivering municipal services. In fact, the Ekurhuleni metro has already corporatised bus services in several towns such as Brakpan, Benoni and Boksburg. Therefore, the privatisation of the Springs bus service is seen as a bad experience of an alternative service provision arrangement.<sup>22</sup>

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<sup>22</sup> Interview with City Manager, Ekurhuleni metropolitan council, 16 July 2003.