

Striking a goal for black empowerment



The soccer stadiums being built for the 2010 Soccer World Cup have become rather interesting sites for point scoring. **Renee Grawitzky** explores some of the dynamics which emerged around the strike at the Moses Mabhida Stadium in eThekweni so as to highlight the complexity of the vested interests at play.

The general secretary of the National Union of Mineworkers (NUM), Frans Baleni argues that the union has made a conscious effort to recruit construction workers wherever they are. What better way of forwarding this agenda than by targeting the rather high profile construction sites of the five soccer stadiums around the country and Gautrain which became the subject of a number of spontaneous and illegal work stoppages. This wave of illegal strikes in Cape Town (Green Point Stadium), Nelspruit, Durban and Gautrain gave momentum to the union which then got involved in an attempt to resolve outstanding grievances amongst workers at the Moses Mabhida Stadium.

The failure to resolve a range of worker demands eventually led to a 12 day strike which raises some critical challenges for unions across the board:

- The growing problem of sub-contracting which results in

- workers working side by side, doing the same work, but having vastly different rates of pay and conditions of employment;
- the role of Black Economic Empowerment (BEE) companies who feel they are 'emerging' and should be given some concessions from the unions, especially in relation to wages and employment conditions;
- the role of the 2010 projects (including Gautrain) and whether unions should be pushing for uniform conditions across all projects. What about a 2010 premium?; and
- the position unions should be adopting in the event government officials (at all levels) are involved in consortiums which are awarded government contracts as has been alluded to in relation to some of the 2010 projects.

The strike at the Moses Mabhida Stadium in November 2007, took place against a backdrop of

heightened tensions in the build-up to the ANC's Polokwane Conference. The legal strike was sparked off by a number of demands and was the subject of two previous illegal work stoppages:

- a wage increase which was subsequently converted into a demand for a bonus;
- the appointment of health and safety representatives; and
- ensuring that sub-contractors pay their workers the same rate as those employed by the main contractors.

ORIGINS OF THE STRIKE

The consortium awarded the contract to build the Durban stadium comprised Group Five and WBHO as the main contractors and Pandev, the BEE partner as the sub-contractor. WBHO 2006 profit before tax went up by 54%. Its BEE partner is Akhiani Investment Holdings who holds a 15% share. Group Five's 2006 company profit before tax increased by 73%. Its

BEE partner is iLima Group and Mvelaphanda Group Ltd who hold 21.6% of the company. Little formal information exists around the composition of Pandev. However, unconfirmed reports reveal that Pandev includes numerous high ranking politicians from national, provincial (KwaZulu Natal) and local government as well as influential businessmen from within the province and more broadly. Union officials indicated that the BEE partners of WBHO, Group Five and Pandev make up a rather interesting mix of so-called pro Zuma and Mbeki supporters which made for some rather interesting dynamics which emerged during the strike. The Group Five-WBHO consortium has also been awarded a range of lucrative contracts running into billions. Contracts include the building of the R3.4 billion King Shaka Airport and numerous of the soccer stadiums around the country (see pg 38).

The building of the Durban stadium began in March 2007 with the consortium being awarded huge bonuses if the project is delivered on time. By the time the project started there were two groupings of workers – those employed by the lead contractors and those employed by the sub-contractor, Pandev. The first group of workers are covered by the civil engineering main agreement and were paid a minimum hourly rate of R11.90 and were represented by the NUM. Amongst the sub-contracted workers (not represented by the union), there were those covered by various statutory agreements relating to security, cleaning etc. However, there were also workers who were not covered by any collective bargaining or sectoral determination that were doing the

same construction jobs as those covered by civil engineering. These workers were earning anything between R5.50 to R6.00 per hour. Since the collapse (from the mid 1990s) of the building industry industrial councils around the country, no statutory obligation to pay a minimum wage exists.

By July, the union sought to renegotiate an original agreement signed with the main contractors and demanded a wage increase. When the union realised this would not materialise, the demand was converted into a project bonus of R1 500 per month. This is aside from the other demands tabled as highlighted at the outset. These demands applied to all workers including those employed by sub-contractors. The lead contractors argued that they had no jurisdiction over the sub-contractors. They agreed however, that sub-contractors had to pay according to the industry minimum.

The demand that people doing the same work should be paid the same was one of the demands which sparked off the two previous unprotected strikes. Following these strikes, the NUM came on board and approached the employer to enter into discussions to ensure parity in conditions of employment. At that stage the union had a very low level of representivity. (However, by the end of the strike, the union had recruited 98% of the workforce.)

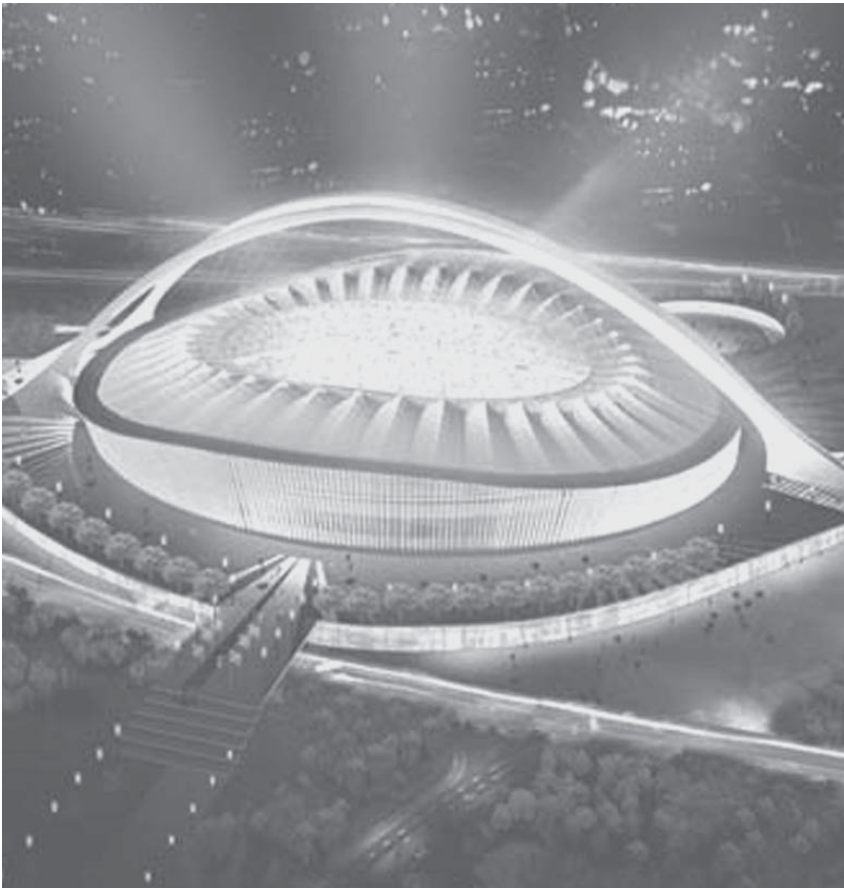
A dispute was eventually referred to the Commission for Conciliation Mediation and Arbitration (CCMA) in October 2007. During initial discussions the lead contractors agreed to pay a bonus of R500 per month paid over a three month cycle so that it did not look like a wage increase. However, at a critical stage in the negotiations, tension erupted and the employer

withdrew the offer. During the 12-day strike, which started on 7 November 2007, the CCMA tried to intervene but the parties went it alone. The parties eventually settled on two lump sum payments in December (R2 000) and May 2008 (R4 000) – if the contract comes in on time.

THE 'POLITICS' OF THE STRIKE

'This was not a normal dispute given the composition of those involved in the companies... employers must have been given some kind of assurances as they did not appear to care initially if the dispute was settled or not... if government officials and politicians were not part of the consortium, it would have been a simple dispute between Group Five and the NUM', a NUM official said.

The union believes that various influential and high ranking politicians are part of the Pandev consortium. The union believed that the situation was complicated by the fact that all parties to the various consortiums (from Pandev to the BEE partners in Group Five and WBHO) wanted to 'protect the pie' and not give into workers. A union organiser said he had expected the premier of KwaZulu Natal to have expressed some interest in intervening in the strike but he allegedly claimed that he was not concerned as the project was meeting its targets. On the one hand it appeared that 'no one wanted to be compromised before Polokwane' and did not overtly involve themselves in the strike but behind the scenes, union negotiators faced pressure from all quarters to settle. It is believed that during the strike, politicians and businessmen from the different political 'camps' sought to influence different individuals both within Cosatu and the NUM. Whilst the



union claims that businessmen from the various groupings were concerned about ending the strike once it began, there has been some speculation as to whether some elements wished to use the strike to embarrass President Thabo Mbeki in the eyes of the international community.

A union organiser said irrespective of which political camp people were from, they were united by one concern and that was to protect their profits and ensure a settlement as low as possible. As Baleni argues: 'We do not want to be seen to be against 2010. As a principle we are fully behind it but there are a lot of stakeholders including government ministers who have a stake in this project... It is incorrect that workers are being exploited while those people in office – government officials – are making a profit.' He added that it was problematic that government was both player and referee. Government is the client but government officials are stakeholders in those companies providing a service to government.

An interesting dynamic emerged as the parties sought to settle with the BEE component in the form of Pandev attempting to strike a separate deal with the union. The union claimed that Pandev wanted a separate and discounted deal because it was still an emerging business. 'Anyone who is claiming after 14 years of democracy that it is emerging and should be treated differently should leave the industry,' a union official said.

WAY FORWARD

Whether the strike took on political undertones or not does not detract from the economic demands of workers which have led to numerous unprotected strikes – in some cases without union involvement. Recent events have shown that strikes at 2010 projects are likely to continue. The strikes first started in Cape Town and then moved to Durban, Nelspruit and Gautrain. The demands are all very similar while there appears to be some convergence now emerging around the settlements with an attempt to standardise conditions. This will

only occur if the unions take advantage of this unique opportunity and organise themselves better.

Various initiatives are currently underway to promote discussions between the main 2010 contractors and the unions under the auspice of organisations such as the CCMA. Over the last year or so, the CCMA has sought to be more proactive in the prevention of disputes. With this in mind, it has sought to engage various stakeholders to discuss labour relations across all 2010 projects. There is a sense that a common position needs to be developed around these projects which some believe should have been classified as national interest projects. In the initial stages of these projects, some unions signed away their right to strike in favour of wage arbitration which is now causing some serious challenges for them. Other challenges relate to putting pressure on the Department of Labour (DoL) to extend the sectoral determination for civil engineering to cover all workers in various sub-sectors of building and construction.