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CORPORATE SERVICES

A 023/03/2024

CERTIFIED EXTRACT OF A RESOLUTION BY THE MUNICIPAL COUNCIL IN AN ORDINARY COUNCIL MEETING HELD ON 28 MARCH 2024 THROUGH VIRTUAL MEANS COMMUNICATION.

A 023/03/2024

SUBMISSION OF THE ANNUAL REPORT AND THE OVERSIGHT REPORT FOR 2022/2023 OVERSIGHT REPORT (MM)

RESOLVED (THAT):

1. Council, having fully considered the Annual Report for 2022/2023 financial year of the Municipality and representations made thereon, adopts the 2022/2023 Oversight Report.

CERTIFIED AS A TRUE COPY OF THE MINUTES


MUNICIPAL MANAGER
TM MASHABELA



APPENDIX U

MPAC OVERSIGHT

REPORT

VICTOR KHANYE LOCAL MUNICIPALITY



2022/2023 OVERSIGHT REPORT

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1 FOREWORD BY CHAIRPERSON

Council has the responsibility of overseeing the performance of their Municipality as prescribed by the Constitution of South Africa, the Municipal Finance Management Act and Municipal Systems Act. This oversight responsibility of Council is pivotal in the process of considering annual reports. Annual reports are the key accountability tool that helps council to play oversight role over the executives and administration and for Councils to report to members of community and other stakeholders about their performance against targets and budget set in their strategic plans in the financial year that has just ended.

The performance outcome and the recommendations from the auditor general clearly emphasizes that it can no longer be business as usual. There is an urgent need to improve the municipal systems and processes. The Auditor general outcomes are a clear indication that there is a need for consequence management for those that are continuing to commit serious financial misconducts as well as transgressions which are resulting to the outcome from the AG. We owe the public good governance, service delivery as well as accountability on the public funds expenditure. I wish to thank all members of MPAC for their efforts, commitment and drive to investigate and transparently executing their duties without political influence. With all that being said, the stagnation on the audit outcome is evident enough that there is so much that needs to be done to improve the situation. I believe that the municipality has the capacity to turn the situation around. Furthermore, I wish to thank the Speaker of the Council and the administration for the support and effective implementation of MPAC instructions and record keeping.

2 INTRODUCTION

In accordance with the provisions of Section 79 (1)(a)(b) and (c) of the Municipal Structures Act 1998 a municipality may establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers and appoint the members of such committee from among its members. Furthermore, Section 79 (2) of the Municipal Structures Act, 1998 provides the framework and guidelines within which such committees of council shall operate. During the 2009 Association of Public Accounts Committee (APAC) Conference in Badplaas a

resolution was taken stating that the Conference supports the establishment of Municipal Public Accounts Committees (MPACs) in each municipality in the Province as part of improving financial management and accountability at local level. Thus in order to enhance, promote and consolidate the oversight role of the Council over the executive, the Department of Cooperative Governance and Traditional Affairs having consulted the National Treasury and SALGA, has instructed that all municipalities establish MPACs. The focus of the MPAC will be to assist Council to hold the executive to account and to ensure the effective and efficient use of municipal resources.

3 LEGAL FRAMEWORK

The following legal framework apply in the development and adoption of the oversight report by councils.

3.1 The constitution of the republic of South Africa of 1996

The Constitution of South Africa stipulates that the objective of local Government among others is to provide democratic and accountable government for local communities. Development and adoption of the Annual report and oversight report is the primary tool used by Council to ensure accountability to local communities. Section 160 of the constitution further prescribes that a Municipal council must conduct its business in an open manner. It is in this context that municipalities must ensure public participation in the Process of IDP and reviewing of annual reports.

3.2 The Local Government: Municipal Structures Act (Act 117 of 1998)

The Municipal Structures Act (Act 117 of 1998) stipulates for the establishment of council committees which amongst them is the MPAC which is delegated oversight responsibility to interrogate annual reports and develop reports for consideration of council.

3.3 The Local Government: Municipal Systems Act (Act 32 of 2000 as Amended)

The Act provides for System of delegations to various Council functionaries including committees like MPAC. It further outlines how municipalities must develop annual Reports for purposes of accounting to members of community and how the members of the community should be involved in council decision-making process and their participation in the process of reviewing Annual Reports.

3.4 The Local Government: Municipal Finance Management Act (Act 56 of 2003)

This Act describes how annual reports should be which includes annual financial statements should be developed, tabled to council, audited by the auditor General and reviewed by oversight committees such as MPAC for purposes of adopting the oversight report. It is in this regards that national treasury and CoGTA developed guidelines and circulars that guide municipalities on how to establish MPACs and their mandates, the development of annual reports and adoption of the oversight report.

3 COMPOSITION

The MPAC committee was established by Council resolution number A19/07/2010 in terms of section 79 of Municipal Structures Act, 117 of 1998. The oversight committee consists of the following members:

1. Councillor Ndlovu JZ (Chairperson).
2. Councillor Mbalati BLO
3. Councillor Segone TS
4. Councillor Bath DJ.
5. Councillor Lebatse ES
6. Councillor Mohoadiba E
7. Councillor Senekal P

4 STATEMENT OF PURPOSE OF THE OVERSIGHT REPORT

The council of a municipality must consider the annual report of the municipality and of any municipal entity under the municipality's sole or shared control, and by no later than two months from the date on which the annual report was tabled in the council in terms of section 127, adopt an oversight report containing the council's comments on the annual report, which must include a statement whether the council-

- a) has approved the annual report with or without reservations;
- b) has rejected the annual report; or
- c) has referred the annual report back for revision of those components that can be revised.

National Treasury issued circular 32 on 15 March 2006 on the preparation of Oversight Reports and Circular 63 that provides guidelines on the processes to be followed in the adoption of the Oversight Report, to which this report conforms.

The Oversight Report is a separate product from the Annual report. The Annual Report is submitted to the Council by the Accounting Officer and the Executive Mayor and is part of the process for discharging accountability by the executive and administration for their performance in achieving objectives and goals set by the municipality in the relevant financial year. The Oversight Report follows consideration and consultation on the Annual Report and is considered to be a report of the municipal council.

5 SUMMARY OF MATTERS RAISED WITH THE ADMINISTRATION

The Committee would like to commend Administration for the effort put in developing the Annual Report that is compliant to Treasury Guidelines. In the process of analysing the Annual Report the following Comments and Questions were raised and forwarded to the Accounting Officer.

6 Comments/questions on the annual report

MPAC questions to Management

6.1 MPAC questions to Management		
Questions	Department	Responses
1. Has the indigent policy been applied according to its original terms and prescripts and has any part of the policy been changed or waived?	BTO	Yes the indigent policy is implement and applied accordingly. The indigent policy is for both councillors and administration for proper implementation.
2. How much of the equitable share go towards funding for the indigent?	BTO	The funding is based on the number of indigents in the registration which provides for free 6kl of water and 50 kw of electricity.
3. Explain the difference between what was allocated by national government and what was allocated by the municipality?	BTO	There national government have grants which they allocate to municipality (equitable shares;MIG,WSIG,FMG) The municipality funds from the services charges and property rates and other revenue.
4. What percentage of own funds in the municipal budget has been allocated to fund the indigent policy?	BTO	The municipal budget only covers the writes of the indigents and is 3% in the original budget however the municipality at year end may require more because on the writes of.
5. How does this percentage compare to previous years?	BTO	It depends on the number of indigent approved.
6. Have the indigent registers been updated and when? Has the actual number of indigents increased or decreased? What are the reasons for such an increase/decrease?	BTO	On the monthly basis the indigent it's updated. the updating is in the basis of the submission of the application approved and assessed,

7. What measures are in place to verify and validate indigent information to ensure integrity of information in the indigent register?	BTO	The verification used is search work
8. Is credit control being applied regularly as per council policy?	BTO	Yes,
9. Is collection levels on own revenues increasing or decreasing and what are the reasons and corrective actions taken?	BTO	The collection of revenue is at 65%
10. What is the turnaround time for customer complaints on service billing	BTO	The turnaround time depends on the nature of the problem
11. What screening measures are being applied in respect of persons accessing work opportunities through the EPWP / CWP?	Office of the MM	There is no screening applied for CWP and EPWP. The screening costs +-R4000 per person.
12. How many persons participate in the EPWP / CWP currently and in comparison, to the previous year? What percentage of the overall economically active population of the municipality participates in the EPWP / CWP?	Office of the MM	For the year ended 438 people and the previous year it was 150.
13. Is the operational budget for delivery sufficient? (Check variations)	BTO	No its not because of scarcity of resources
14. Please explain the correlation between the number of vacant posts in specific departments and the over-time payments incurred by these departments?	BTO and Corporate services	There is no correlation the overtime is caused aging infrastructure
15. What is the views of Ward Councillors on the content of the Annual Report relating to their own wards?	Office of the Municipal manager	No issues raised

17. Have by-laws been reviewed within the various functions? If so, when? If not, why not?	Social services	Yes the by-laws have been reviewed.
18. Are all by-laws effectively being enforced in the Municipality? If not, which by-laws are not actively being enforced and why?	Social services	No they are not enforced because there is limited number of personnel.
19. What is the revenue generated through the various by-law enforcement activities?	Social services	None because there is no personnel, however, the municipality is in the process of recruiting more personnel.
20. Have all staff been inducted (council policies) and have they attended sessions on public service ethos - putting people first?	Corporate services	Mr Motha the Deputy Manager Labour Relations has trained all Supervisors on the policies and ethos and some employees not all.
21. Have all staff received or updated job descriptions?	Corporate services	No, Corporate Services is working on new Job Descriptions together with the departments that are aligned to the structure and SMART.
22. Have all staff signed performance agreements? If not, why not?	Corporate services	No, the performance agreements were only signed by the Managers at level 13-16 and not yet cascaded to the lower levels, the municipality is still working on the process of cascading to all employees.
23. Have performance reviews been instituted? If not, why not?	OMM	Yes, performance reviews have been instituted.
24. Have any performance bonuses been awarded?	Corporate services	No
25. What is the monetary value of performance bonuses and what percentage is that in relation to the overall salary bill?	Corporate services and BTO	No

26. Is there complete supporting performance assessment documentation in respect of all performance bonuses paid to managers and other staff?	Corporate services and OMM	No
27. Is the above reflected in the performance reports of the respective departments?	Corporate services	No
28. Do the results of individual performance reviews mirror the overall delivery performance of the municipality? (e.g. it would be hard to justify excellent performance reviews for staff when the municipality has been performing poorly overall) If not, why not?	OMM	Yes
29. Is there a trend of staff taking an increasing number of days of sick leave and if so, what in management's view is the reason for this? What is being done about it?	Corporate services	Yes, Management is taking such employees on medical boarding through their pension funds.
30. What segment of the budget do employee costs constitute in percentage terms and what are the year-on-year trends in this regard?	BTO	The employee costs are still within the threshold which is 30% and the limit by National Treasury is 35%. The total is as per the stamped AFS
31. How many contract staff have fixed term contracts with the municipality?	Corporate services	none
32. How many contract staff were employed on month-to-month contracts?	Corporate services	four
33. What is the monthly wage bill for all contract staff currently employed by the municipality?	BTO	Please refers to Section 71 on monthly basis
34. Why have contract staff been appointed?	Corporate services	Because of certain matters periodically that needs such interventions.

35. Are there instances in which consultants are appointed to tasks because posts are vacant?	BTO	No
36. Please describe the number and circumstance of these appointments?	Corporate services	Refuse Removers, because the municipality could not fill vacant positions on time.
37. Are there instances where consultants are employed to perform tasks that fall within the ambit of existing posts that are filled? If so, Why?	BTO and Corporate services	Yes, compilation of AF's and there is an exit plan for such appointments.
38. What is the plan to reduce contract staff over the medium term?	Corporate services	Appoint permanent staff over a period of time.
39. Have all staff within the SCM Unit completed declaration forms?	Corporate services	Yes
40. Have all members of SCM committees completed declaration forms?	Corporate services	Yes
41. Has the information in the declaration forms been verified? Are supplier declarations vetted against internal SCM staff and SCM committee members?	Corporate services	Yes there were properly constituted
42. Was the 3 bid committees properly constituted? If not, why not and what steps are being taken to rectify the non-compliance?	Corporate services	Yes they were properly constituted in line with the relevant legislation.
43. Kindly provide a breakdown of contracts awarded through (i) Petty cash purchases, (ii) Written or verbal quotations, (iii) Formal written price quotations and (iv) Competitive bidding?	BTO	Petty cash no more than R500, We do not have petty cash contracts. Written or verbal less than R 2000 Formal written quotations R 2000- 299999 Competitive bidding R200000

44. How many contracts were awarded for the financial year ending June 2023? What was the total combined value of these awards? Please break it up per commodity procured.	BTO	The contracts are in line with submission on the council on the implementation of supply chain management
45. Of the amount of contracts awarded for the financial year ending June 2023 in how many instances was the provisions of regulation 36 of the Municipal Supply Chain Management Regulations utilised including the basis or reasons for not following a competitive bidding process in each instance?	BTO	There is no deviation of the full year.
46. Was the reasons accepted and approved by the accounting officer? If so, provide us with the written approval provided by the accounting officer?	BTO	There is no deviation of the full year.
47. Was the reasons for deviation in terms of regulation 36 tabled at the first meeting of Council after the event? If so kindly provide us with written proof of tabling in council including any comments from Council, if any, and how such was addressed by the accounting officer?	BTO	There is no deviation of the full year.
48. Were the reasons for deviation included in the notes to the annual financial statements? If so, kindly provide us with the note and page number in the annual financial statements where this can be obtained and verified?	BTO	Yes there were
49. Of the amount of contracts awarded for the financial year ending June 2023, in how many instances was the provisions of regulation 32 of the Municipal Supply Chain Management Regulations utilised including the basis or reasons for not following a competitive bidding process in each instance?	BTO	There is none

50. Confirm whether the contract which was concluded by the other organ of state was procured via a competitive bidding? If so, kindly provide written proof to this effect?	BTO	There were no section 32 of Mfma appointment
51. If the other organ of state did not follow a competitive bidding process in appointing the service provider, but the accounting officer still proceeded in utilising the provision, kindly provide reasons why this provision was utilised despite this being an inherent requirement of regulation 32?	BTO	There were no section 32 of Mfma appointment
52. Kindly provide the written report submitted to the accounting officer demonstrating the discounts and benefits to be derived by the municipality in utilising this specific contract? If this was not submitted as part of the legislative process in requesting approval from the accounting officer, please explain on what basis was the cost benefit analysis made?	BTO	There were no section 32 of Mfma appointment
53. Are all contractors to the municipality rendering services in relation to a properly signed contract?	BTO	The municipality is currently finalising all its SLA where contracts are outstanding
54. Have all contracts or temporary contractors used by the municipality, been legally vetted?	BTO	Yes all signed SLA are drafted by legal.
55. Do all contracts contain a clear set of indicators, targets and/or deliverables to which the contractor must respond to?	BTO	Yes
56. Have the end-user departments in the municipality signed-off on the contract including its deliverables, targets and indicators?	BTO	The municipality is currently finalising all its SLA where contracts are outstanding

57. What is the process for managing contracts within the municipality? Is this process adhered to for each contract?	BTO	The contracts are assessed by end user department
58. How many contractual disputes exist between suppliers and the municipality? What are the main reasons for the disputes?	BTO	We had a contract dispute with Ruvick.
59. Are any of these reasons indicative of systemic or other challenges in the SCM process?	BTO	None adhering of procurement plan
60. How many disputes are currently the subject of litigation?	BTO	None
61. What are the costs involved in the litigations thus far?	BTO	The expenditure is as indicated on the stamped AFS The court cost and legal represented in the AFS
62. Which projects are negatively affected by litigation and or disputes? What is the value of those projects?	BTO	None
63. Have communities been made aware of the disputes and/or litigation in relation to projects in their areas?	BTO	The report of the audit committee which form parts of the reports that sits in the council has the litigation register
64. What has the municipality done to seek alternative dispute resolution mechanisms to address disputes?	BTO	In terms of matters related to rand water and Eskom we rob in district, COGTA, Provincial Treasury as part of intergovernmental relations.
65. What percentage of suppliers (in relation to total rand value) has been paid outside of the 30 days of invoice?	BTO	The main suppliers that are not paid is Eskom and Rand water
66. What are the reasons for late payments?	BTO	Cash flow of the municipality
67. Do these reasons indicate any systemic or other challenge being experienced in the SCM or Finance Section of the Municipality?	BTO	Revenue collection

68. Is there a plan in place to ensure that all suppliers are paid within 30 days of invoice?	BTO	Yes budget funding plan
69. Has the municipality conducted an in-depth analysis of the previous findings with a view to establish the root causes of the findings?	All Departments	Yes, the municipality has conducted an in-depth analysis. The municipality has compiled an audit action plan which captured roots causes of all the findings and all the activities that needs to be done to clear and deal with the findings.
70. What role has Internal Audit played in monitoring same?	OMM	The internal assesses the audit action plan they form part of the committee that sits every week to look at the progress of the audit action plan.
71. Has the municipality developed a plan to address all the root causes of findings of the Auditor-General?	All Departments	Yes, the municipality has conducted an in-depth analysis. The municipality has compiled an audit action plan which captured roots causes of all the findings and all the activities that needs to be done to clear and deal with the findings.
72. How has the municipality implemented and monitored the plan?	All Departments	The municipality submits the monthly report on the progress of the audit action plan. There is weekly meeting to submit portfolio of evidence on the progress made in order to address the audit action plan.
73. Has the municipality ensured that the issue of dealing with Auditor-General findings are reflected and assessed in the performance agreements of managers?	All Departments	Yes, as part of the performance agreement of senior manager. Quarterly report are submitted as part of the SDBIP.

74. Is the municipality confident that its measures to address root causes will result in the resolution of the findings and that the findings will not recur?	All Departments	The municipality is confident that the audit action plan will be fully implemented to address the finding.
75. Is there any consequence management that has been applied to any officials who have failed in their duties to remedy previous findings of the Auditor-General?	Corporate services	No

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7 COMMITTEE OBSERVATIONS AND AUDIT REMEDIAL ACTION PLAN

In terms of Sect. 131. (1) of the Local Government: Municipal Finance Management Act, (56 of 2003) A municipality must address any issues raised by the Auditor-General in the audit report. The mayor of a municipality must ensure compliance by the municipality with this subsection. The following are the Comments of the Committee:

1. The Committee acknowledges that issues that form basis for qualified opinion by the AG are going to be addressed;
2. The Administration should put mechanisms to deal with all matters of emphasis
3. The progress on remedial action taken to address the AGSA finding be submitted on a monthly basis.
4. The detailed reports highlighted in the tables be submitted to MPAC for review.

8 RECOMMENDATIONS (THAT):

- a) Council, having fully considered the Annual Report for 2022/2023 financial year of the Municipality and representations made thereon, adopts the 2022/2023 Oversight Report.

