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EXTRACT FROM THE MINUTES OF THE SEVENTH ORDINARY COUNCIL MEETING OF PHUMELELA MUNICIPALITY HELD ON THE 27TH MARCH 2024 AT 12H00, COUNCIL CHAMBER, VREDE.

ITEM 84/03/2024

RE: MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) OVERSIGHT REPORT: DRAFT ANNUAL REPORT FOR 2022/2023.

RESOLVED

1. That the report regarding the Oversight Report of MPAC on the Draft Annual Report was noted.
2. That the Oversight Report on the Draft Annual Report 2022/2023 was approved without reservations.

Signed by: T.R. ZWANE
CLLR: T.R. ZWANE (Speaker)

27/03/2024
DATE

PHUMELELA LOCAL MUNICIPALITY



MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

OVERSIGHT REPORT 2022- 2023

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1. GLOSSARY

AR	- Annual Report
AFS	- Annual Financial Statements
AGSA	- Auditor General of South Africa
APR	- Annual Performance Report
CLIR	- Councilor
MAYOR	- Mayor
PLM	- Phumelela Local Municipality
PMS	- Performance Management System
IDP	- Integrated Development Plan
MEC	- Member of Executive Council
MSA	-Municipal Structures act
MFMA	- Municipal Finance Management Act
MPAC	- Municipal Public Accounts Committee
MSA	- Municipal Systems Act
PMU	- Project Management Unit
SALGA	- South African Local Government Association
SDBIP	- Service Delivery Budget Implementation Plan

2. Introduction

- The MPAC is established in terms of Section 79 of the Municipal Structures Act and performs an oversight function on behalf of council and is not a duplication of other committees of council, such as the Finance Committee or that of the Audit Committee. Council is vested with the responsibility to oversee the performance of their municipality, as required by the constitution, the Municipal Finance Management Act and Municipal Structures Act.
- The Local Government: Municipal Finance Management Act, Act 56 of 2003 (MFMA), assigns specific oversight responsibilities to council with regard to the Annual Report and the preparation of an Oversight Report. The Municipal Public Accounts Committee was established for ensuring that the executive implements programs and plans in a way consistent with policy, legislation and the dictates of the Constitution. Given the processes required by council to effectively undertake its oversight role, the establishment of an Oversight Committee of council would provide the appropriate mechanism in which council could fulfill its oversight responsibilities. In the case of the Phumelela Local Municipality the Municipal Public Accounts Committee (MPAC) fulfills the role of performing Oversight.
- Council is vested with the responsibility to monitor the performance of their respective municipality, as requested by the Municipal Finance Management Act (MFMA) and Municipal Systems Act (MSA). This oversight responsibility of Council is particularly important for the process of considering Annual Reports.

The MFMA and MSA recognize that Council has a critical role to play to ensure better performance by municipal departments and entities. There now exists an explicit linkage between the strategic goals set by Council through the IDP, which are translated into the Budget, and the delivery of those goals, which is reported in the Annual Report.

It is important for Council to ensure that the Budget gives effect or expression to priorities contained in the IDP. A good budget will lay a basis for better oversight and cement the contract between the Executive/Council, Administration and the public
- The MFMA gives effect to financial management reforms that place greater service delivery responsibilities on Managers and makes them more accountable for performance. Whilst, in the first instance it is left to the Mayor or the Executive Committee to resolve any

performance failures, ultimately the Council is vested with the power and responsibility to oversee both the Executive Committee and the Administration.

3. Background

According to the Municipal Finance Management Act (MFMA) Act No. 56 of 2003 as well as Circular No. 63 of the National Treasury the committee has been mandated to perform oversight on public accounts of the municipality. The 2018/19 oversight report is to be tabled before the Council in order to state its comments on the Annual Report. In line with the legal prescripts, section 129 (1) states that:

"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 129, adopt an oversight report containing the council's comments on the annual report, which must include 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.

"The preparation of the draft oversight report was guided by the framework and the committee's Terms of Reference. These documents serve as guidelines outlining the work of the committee.

4. Discussion

Council in its ordinary meeting dated 2024/01/31 under item 66/01/2024 i.e. Draft Annual report 2022/2023 FY resolved inter-dia as follows:-

1. That Council noted the report on the Draft Annual Report for 2022/2023 Financial Year.
2. That the Draft Annual Report be referred to MPAC.

5. Process Followed

- The Mayor Cliff DM Kobeni tabled the annual report on the 31st January 2024 which is within the stipulated time frame regulated by Section 121 of MFMA.
- The Annual Report was then referred to MPAC for further review and oversight under resolution **66/01/2024**.
- The MPAC obtained evidence that the community and other stakeholders were notified about availability and locations where the Annual Report could have been accessed, called upon to submit comments on the Annual Report to specified address or designated official and the time frames which had to be adhered to.
- MPAC working session was held on the 19th March 2022 to review, examine and discuss the annual report with guidance and in line with circular 32 of the MFMA and the findings in this regard is noted in the report below.
- Management of the Municipality led by the Municipal Manager were invited by MPAC to make a summary presentation of the Annual Report formally to MPAC and to responds to the questions by MPAC members.
- The MPAC did not receive any comments submitted by the community or other stakeholders on the annual report because no such comments were received by the municipality.

6. MPAC Observations on Annual Report –Chapter 1 to 5

- When evaluating the Annual report of the municipality for the period ending 30 June 2023, MPAC took into consideration and validated the existence of the following key components of the reports as required in terms of circular 32 of the MFMA and section 121 (3) of the MFMA determines that the annual report must be inclusive of relevant observations and comments for improvement and action where necessary.

No Relevant Section in the Annual Report		Comments
Chapter 1: Summary	Executive Mayor's Foreword and Executive Summary	<p>This section was found to be inadequately covered in the report. Both Mayor's foreword (Pages. 2-3) and the Municipal Managers Overview (Pages. 4-8) are not in line with MFMA circular 63. Difficulties experienced by the municipality are not reflected under priority issues related to financial management (Page 7). Nowhere in the summary do we talk about our debt to Eskom and water. Basic service delivery challenges faced (Page 17) interventions not sufficient to reflect the status co.</p>
Chapter 2: Political and Administrative Governance	Governance	<p>The Annual Report governance section of the report was accounted for highlighting the following:</p> <ul style="list-style-type: none"> • Composition of Council, Political Office Bearers and Mayoral Committee; • Key Decision in a form of council resolutions taken during the period under review; • Administrative governance structure outlining details of senior management team; • Intergovernmental Relations Structure of the municipality focusing on meeting conducted during the period under review • Corporate Governance with specific focus on Risk Management, Internal Audit, and Audit Committee were clearly outlined. • The audit committee report was also considered particularly the recommendations • The Municipal Policies and bylaws were also listed although there is a need for review of all policies since their last approval was in 2017 • Anti-fraud activities were also reported although activities around the awareness campaigns need to be undertaken and reported in the next cycle. • The Municipality website as an issue of concern to MPAC a recommendations in relation to this was raised. <p>Refer to pages: 21 -49 of the annual report</p>

3	<p>Chapter 3: Organizational Development (Performance Report Part I)</p>	<p>3: An assessment by the municipality's accounting officer of the municipality's performance against the measurable performance objectives</p>	<p>Upon review the following key organizational development areas were disclosed and reported on in order to measure the outcome of effective organizational development against the municipality's strategic plans:</p> <ul style="list-style-type: none"> • Municipal Human Resource; • Capacitating the municipal workforce; • Managing the municipal workforce expenditure; • Organizational structure enhancement; • Increased accountability; • Increased participation in problem solving, goal setting and new ideas; and • Identifying and development of skills needed to perform <p>Refer to pages 51 – 60 of the report.</p>
4.	<p>Chapter 4: Service Delivery Performance</p>	<p>4: The annual performance report of the municipality prepared by the municipality in terms of section 46 of the Municipal Systems Act</p>	<p>The Annual Performance report of the Municipality is included in the Annual report, at Chapter 3 (page 51 – 60), SDBIP Performance (page 62-67) and Chapter 5 (page 80-87)</p> <p>Upon reviewing the report it was evident that this section of the report was accounted as required in terms of section 46 of the Municipal Systems Act. During the period under review the Auditor General performed a review on performance information and focus was on KPA 2: Basic Service Delivery and Infrastructure Development.</p> <p>Refer to pages 61 – 77 of the report</p>
5.	<p>Chapter 5.1: Financial Performance</p>	<p>5.1: The Annual financial statements of the municipality, and in addition, if section 122(2) applies the consolidated annual financial statements as submitted to the Auditor-General.</p>	<p>The Annual Financial Statements as submitted to the Auditor General is included in the Annual report with the final revised AFS adjusted according to the result of the Audit outcome are part of the draft annual report.</p>

<p>6. Chapter 5.2 Non-Financial Performance</p>	<p>The Auditor-General's audit report is included in the annual report in terms of section 126(3) on those financial statements</p>	<p>The Auditor-General's report is included in the annual report. Pages 6 – 102. The Audit Report, unqualified with findings. The report covered the following:</p> <ul style="list-style-type: none"> • Matters raised during the previous financial year's audit; and • Remedial action taken to address those issues and preventative measures taken. <p>The Auditor General's audit report is included in the Annual Report at Chapter 5 (Pages 80 – 87). Component B – Auditor General Opinion 2022 – 2023 is included in the Annual report from Pages 88-90).</p>
<p>7.</p>	<p>Any information as determined by the municipality</p>	<p>The issue of the Organogram which is sitting at consultative level should be expedited to aid the municipality to address the thread of institutional transformation</p>
<p>8.</p>	<p>Any other information as may be prescribed</p>	<p>The external audit done by the Auditor-General resulted in an unqualified opinion, with findings.</p> <p>Comments have not been received from Provincial Treasury indicating that all formal legal requirements were met pertaining to the tabling and advertising of the Draft Annual Report. The report of Provincial Treasury would have been attached as an Annexure to the Oversight Report.</p> <p>With regards to the report, the following should be noted:</p> <ul style="list-style-type: none"> • The Council resolution {ITEM 66/01/2024} states that Council approved and adopted the Draft Annual Report. Council should <u>note</u> the Draft Report until the final Budget is tabled. • The Annual Report should be in line with Circular 63 of the MFMA. • Municipal Budget deficit, a need for municipality to improve its revenue collection to be able to budget for surplus • Municipal Inability to collect revenue as a matter of concern, this makes it difficult for municipality to fulfill its monthly commitments and obligation towards its creditors.

7. Discussion Matters of emphasis

The Auditor General states in the *Report of the Financial Statements* that the evidence that was gathered is sufficient for him to provide his audit opinion. In his opinion the financial statements as at 30 June 2023 represents fairly and in all material respects, the financial position of the municipal council.

However I also draw attention to matter below. My opinion is not modified in respect of this matter.

Note 47 to the financial statement indicates that the municipality incurred a net loss of R29 648 855 during the year ended 30 June 2023, as of that date, the municipality's **current liabilities exceeded its current assets** by R352 034 086. The Municipality has been deducting pension, medical aid, and pay as you earn from employees' salaries, but has been unable to pay over R4 57 728 of these amounts to the relevant third parties as disclosed in note 52.

In addition, the municipality owed Eskom R182 438 800 (2022: R161 221 232) and DWS R159 798 238 (2022: R137 339 493) as at 30 June 2023, which was long overdue. These events or conditions, along with other matters as set forth in note 47, indicate that a material uncertainty exists that may cast significant doubt on the municipality's ability to continue as a going concern.

He raised the following matters of emphasis that MPAC considered with a view to assist management, namely:

Material impairment

As disclosed in note 15 to the financial statements, R460 673 905 were incurred as a result of write-off of irrecoverable trade debtors.

Material losses

As disclosed in note 51 to the financial statements, material electricity distribution losses of R5 869 563 (2022: R6 981 631) were incurred, due to technical losses on the breakdown of transformers, cables, overhead lines faulty meters, theft and vandalism.

As disclosed in note 52 to the financial statements, material water losses of R6 670 895 (2022: R6 851 136) were incurred due to defective meters, losses on water network (breakage in pipelines and pumps, leaking valves), evaporation, theft, vandalism and damages as a result of blind excavations.

8. Recommendations

If is therefore recommended:

THAT the MPAC Committee hereby recommends the following to Council:-

THAT the MPAC Oversight Report on the 2022/2023 Draft Annual Report hereby be approved without reservations:

- o That the Mayor's foreword and the Municipal Manager's overview be reviewed to cover at a minimum topics as outlined under MFMA circular 63.
- o That priority issues related to Financial Management; must reflect the following:-
 - a. Eskom debt relief programme to avoid them attaching our bank accounts,
 - b. Water losses: That Measures be put in place by management to prevent the loss of water and that action be taken against those who contravene the water by-laws.
 - c. Cost containment measures to ensure our policies are updated in line with the latter and as grant reliance municipality and
 - d. The revenue enhancement strategies detailing how we intend to becoming self-sufficient.
- o That the key financial management challenges experienced in the financial year under review interventions should not be specific but rather address the challenge from a holistic point of view.
- o That website up-loads for community review and comments (document publishing) must depict a date that is late than to state that there is nothing on the website.
- o That a comprehensive Audit Action Plan covering all essential issues that need to be addressed as they impact the municipality in the future are included as opposed to a high level action plan depicting material issues that are sitting on the Audit Report.
- o That remedial actions in the action plan are properly constructed to cover both the issue of consequence management that MPAC will address and what must be done by Management to curb the reoccurrence of issues.

- o That Council Investigates the Uf&W as disclosed under note 48, 49 and 50 of the Audited Financial Statements.
- o That the detailed investigation report with recommendations be submitted to council for further consideration.
- o That Council ensures that all Councillor's pay for Municipal services and property rates and settle their debts at
- o That all Councillor's who owe the Municipality for municipal services and property rates must consider signing deduction forms for the settlement of their outstanding debts.
- o That Incorrect billing and data cleansing be given a proper attention to address the low collection of revenue Irregular, fruitless and wasteful expenditures as results of non-compliance to supply chain regulations.
- o That the appointment of the Disciplinary/Financial Misconduct Board be expedited to deal with amongst others issues of consequence management.
- o That the use of consultants with no clear reduction plan be looked at, the municipality should capacitate its own employees in order to save money spent on consulting services.
- o That Proper reviews of Annual financial statement and Annual Performance reports should be done to avoid adjustments
- o That Issues of compliance must be given appropriate attention by management in order to achieve clean audit.

9. General: Observation on and analysis of the 2022/2023 Draft Annual Report.

The general appearance, accessibility and readability of the draft annual report is satisfactory.

10. Conclusion

The Unqualified Audit Report for 2022/2023 is again welcomed. The MPAC is of the opinion that the Executive and Administration should be acknowledged for the hard work done to maintain the unqualified audit opinion.

MPAC is concerned about the findings of the office of the Auditor-General regarding the municipality's performance over the last couple of years, specifically concerning the matters repeatedly raised by the mentioned office. All efforts should be made to achieve a clean audit report.

The MPAC will continue to carry out its oversight role, namely, to assist the Municipality to be accountable to its ratepayers and to make meaningful recommendations to assist the municipality.

The MPAC Committee therefore, at its meeting held on 19th March 2024, unanimously resolved to recommend that the **2022/2023 Draft Annual Report be approved** in terms of section 129 of the Local Government: Municipal Finance Management Act No. 56 of 2003 **without reservation.**

Yours in the name of Accountability and Good Governance



Hon Cllr. K.A Sibeko
MPAC Chairperson

27 March 2024
Date