

1. **MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)**  
**COVER REPORT: OVERSIGHT REPORT FOR 2019/ 2020 FINANCIAL YEAR.**

Office of the Speaker

1. PURPOSE

To present the MPAC Oversight Report on the Annual Report for 2019/202020 Financial Year which focused on municipal performance, expenditure and administrative processes as well as findings from the audit committee and the Auditor General's Office.

2. INTRODUCTION

The MPAC is a committee of Council established in terms of Section 79 (1) (a) and (b) of the Municipal Structures Act of 1998. In accordance with the above provision, the MPAC has the powers and functions that Council has seen fit to delegate to the committee. These powers and functions are broadly described within the terms of reference. These terms of reference give expression to the requirement contained in Section 79 (2) of the Municipal Structures Act, 1998 which requires that that the Council shall set out the framework and guidelines within which such committees of Council shall operate. The legal basis for the MPAC oversight functions are set out in Section 129(4) of the Municipal Finance Management Act of 2003 (MFMA) which provides guidance on the manner in which municipal Councils should consider annual reports and conduct public hearings. The MFMA provisions also direct the functioning and composition of any public accounts or oversight committees established by the Council to assist it to consider an annual report. The Sedibeng MPAC is established by Council resolution and in terms of Section 79 of the Municipal Structures Act.

Legislation guides the municipality on the compilation of the MPAC Oversight report and below are the Statement Options which are in line with the legal prescripts of section 129 (1) of the MFMA which 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 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.**

### 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 127, 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

During Council meeting of the 7<sup>th</sup> April 2021 it was inter alia resolved as follows:

***THAT the Final Annual Report be referred to the Municipal Public Accounts Committee for further action and scrutiny as per legislative guidelines.***

*Accompanying this report is the Comprehensive Oversight report for 2019/2020 Financial year with Annexures that speak to the Findings, Management Responses to Questions, Minutes of Previous Meetings as well as Evidence sourced during the MPAC investigation process.*

*“A” pages 1-34, the questions to the administration as Annexure “B” pages 1- 4, management responses as Annexure “C) pages 1-40, forensic report as Annexure “D” pages 1-79, progress*

*report on the forensic report as Annexure "E" pages 1-9, and lastly the Management responses as Annexure "F" pages 1-35.*

## 5. **FINANCIAL IMPLICATIONS**

The activities of the MPAC were financed through the Speakers Vote Number: 32112260600EQ14ZZHO at an amount of R7000 for the purpose of Catering for the Strategic Planning Workshop held on the 21-23 April 2021 and the Transcribing of Minutes was sourced from the Vote Number 31222300120EQP 12ZZHO at an amount of R23 800.00.

## 6. **LEGAL AND CONSTITUTIONAL IMPLICATIONS**

The following Statutes and Notices were used as reference points in the preparation of this report:

- 1) The Constitution of the Republic of South Africa, 1996
- 2) Covid-19 Regulations and Notices (published i.e. of the Disaster Management Act No. 57 of 2002)
- 3) The Disaster Management Act, No. 57 of 2002 & Regulations
- 4) The Draft Public Procurement Bill 2020
- 5) The Local Government: Municipal Finance Management Act No. 56 of 2003 And Circular 63 read together with Circular 32.
- 6) The Division of Revenue Act No 1 of 2018
- 7) The Local Government: Municipal Finance Management Regulations
- 8) The Local Government Municipal Systems Act, No. 32 of 2000 & Regulations
- 9) The Local Government: Municipal Structures Act, No. 117 of 1998 & Regulations.

## 7. **ALIGNMENT TO COUNCIL STRATEGY**

This report is aligned to the following strategies of the municipality:

- Effective management of Council Business
- Strengthening oversight and accountability

## 8. **RECOMMENDATIONS**

It is therefore recommended:

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

- **THAT the MPAC Oversight Report on the 2019/2020 Annual Report be hereby approved with the following reservations:**

1. THAT Management must develop an Asset Management Policy that will be able to monitor the reporting of damage, theft, insurance claims and similar occurrences.
2. THAT the Accounting Officer, through Council, must ensure that there is comprehensive implementation of the Action Plans in order to avoid re-occurrences of non-compliance on the issues raised by the office of the Auditor General in previous reports;
3. THAT the Audit Committee be hereby delegated to formally present its intervention report to Council on a quarterly basis, and to advise Council on potential risks and procedures to avoid such.
4. THAT it be noted that the reports on the misconduct with regards to financial misappropriation, such as fraud and corruption, should have consequence management and money lost must be recouped from the responsible party. It is therefore imperative that all matters relating to financial misconduct must be referred by the Accounting Officer, forthwith on becoming aware thereof, to the Financial Misconduct Disciplinary Board and any other relevant authorities (internal and external) for investigation and disciplinary recommendations.
5. THAT due diligence, vetting and rigorous authentication of purported qualifications and any other employment documentation be conducted prior to commencement of duties when recruiting new employees.
6. THAT the Accounting Officer takes effective and appropriate steps to prevent unauthorized, irregular, fruitless and wasteful expenditure and losses, and to implement consequence management where appropriate or applicable.
7. THAT Council must make suitable financial determinations to recoup salaries paid in excess to Senior Managers and a monthly report/statement must be submitted to MPAC through the office of the Speaker and Council by the Accounting Officer.
8. THAT the COVID 19 non-compliance with Circular 102 related expenditure, which resulted in irregular expenditure of **R1,373,173.75**, be recouped by Council through the Accounting Officer and that appropriate consequence management must take effect as soon as possible.

9. THAT the Finance Department, and more particularly the Supply Chain Department, must circumvent unnecessary deviations, comply with the Municipal Financial Management Act prescriptions in the context of competitive bids advertising, Government Supplier Database Compliance and quality assurance must be done on all appointed service providers.

That an investigation be launched to establish whether the amount of **R324,200.00** can be legally recouped from the estate of the late municipal manager and, if so, the necessary arrangements be made by the Accounting officer, in accordance with an appropriate Council resolution.

9. CONCLUSION

Municipal Public Accounts Committee (MPAC) as a legislated committee performed the Oversight duties in the best interest of safeguarding the municipal public accounts and the promotion of accountability.