AGENDA & MINUTES

of a

MUNICIPAL PUBLIC ACCOUNTS COMMITTEE MEETING (MPAC)

held on

12-07-17
NOTICE is hereby given that a MUNICIPAL PUBLIC ACCOUNTS (MPAC) COMMITTEE meeting of the City Council will be held in the Council Chamber, Civic Offices, Kimberley on WEDNESDAY, 12 JULY 2017 at 14:00.
AGENDA AND MINUTES
MPAC
12 July 2017

RES. NO. ITEM NO & HEADING PAGE ANNEXURE

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B. CONFIRMATION OF MINUTES 1

1. MPAC - 09.11.16 - (MPAC31/11/16 - MPAC33/11/16)
2. Postponed MPAC - 12.12.16 (No quorum)
3. Special MPAC - 06.02.17 (No quorum)
4. Special MPAC - 13.02.17 (No quorum)
5. Special MPAC - 20.02.17 (Presentations)
6. Special MPAC - 28.02.17 (Presentations)
7. Special MPAC - 01.03.17 (Presentations)
8. Special MPAC - 02.03.17 @ 14:00 (No quorum)
9. Advanced MPAC - 02.03.17 @ 09:00 (No quorum)
10. MPAC - 14.06.17 (MPAC01/06/17 - MPAC16/06/17)
    (No quorum - Informal discussion where some items were agreed to recommend to council and some held in abeyance)

C1. PRESENTATIONS 2

None

C2. GENERAL REMARKS 2

D. MATTERS ARISING: 08.02.17

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E. DIRECTORATE REPORTS: 08.02.17

Directorate: Financial Services

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F. DIRECTORATE REPORTS: 08.03.17

Directorate: Financial Services

Office of the CFO

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**G. DIRECTORATE REPORTS: 10.05.17**

**Directorate: Financial Services**

**Office of the CFO**

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**DIRECTORATE REPORTS: 14.06.17**

Nil received by closing date

**H. DIRECTORATE REPORTS: 13.07.17**

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AGENDA & MINUTES OF A MUNICIPAL PUBLIC ACCOUNTS COMMITTEE MEETING HELD ON WEDNESDAY, 12 JULY 2017 AT 14:00

PRESENT:

Members
Cllr N H Buda (Chairperson)
Cllr H Pieterse
Cllr P R Van Wyk
Cllr P Vorster

Non-members
Cllr F L Thulo
Cllr M S Doyle
Cllr K C Phiri
Cllr B P Tshite
Cllr J T Goma
Cllr A N Boqo (from 14:30)
Cllr D S Chinkuli (from 15:10 until 15:45)
Cllr F Kruger (from 15:10 until 15:45)
Cllr O E Matshedisho (from 15:10 until 15:45)

Municipal Manager (until 14:05 and from 15:10), Chief Financial Officer (Z L Mahloko – from 15:00 until 15:05 and from 15:15), MPAC Secretary (M Matsime), Administrator: Committee Services (S Campher) and the Administrative Assistant: Committee Services (J Knox).

A. APPLICATION FOR LEAVE

None

ABSENT WITHOUT LEAVE

Cllr M Lekhatlanya
Cllr L Steenkamp

B. CONFIRMATION OF MINUTES

RESOLVED:

1. That the agenda and minutes of the MPAC meeting held on 9 November 2016 be adopted and approved.
2. That the record of the Postponed MPAC meeting held on 12 December 2016 (no quorum) be noted.
3. That the record of the Special MPAC meeting held on 6 February 2017 (no quorum) be noted.
4. That the record of the Special MPAC meeting held on 13 February 2017 (no quorum) be noted.
5. That the minutes of the Special MPAC meeting held on 20 February 2017 be adopted and approved.
6. That the minutes of the Special MPAC meeting held on 28 February 2017 be adopted and approved.
7. That the minutes of the Special MPAC meeting held on 1 March 2017 be adopted and approved.
8. That the record of the Special MPAC meeting held on 2 March 2017 @ 14:00 (no quorum) be noted.
9. That the record of the Advanced MPAC meeting held on 2 March 2017 @ 09:00 (no quorum) be noted.
10. That the minutes of informal discussions of the MPAC meeting held on 14 June 2017 (no quorum) be noted.

C1. PRESENTATIONS: None

(At this stage -14:05, the Chairperson requested the Municipal Manager to leave the chamber).

C2. GENERAL REMARKS

- That the MPAC was of the opinion that they interact first and directly with the Municipal Manager and if so requested, the executive directors thereafter.
- That corrective steps be taken/action plan be drafted on the outcome of the Audit report. (The Committee was of the opinion that the report was received late and did not form part of the Annual Report).
- It was questioned how maladministration and lack of accountability be dealt with.
- That explanations be provided on budget variances that differ in reports submitted to the IDP and Finance Committees.
- That an external expert opinion is required to advise the MPAC. (The Chairperson indicated that she will liaise with Mr. January from Treasury).
- That updated information is required on the top 100 debtors list.
- That a proposal was made to have two MPAC meetings per month – one to investigate issues and another to interact with officials.
- That the MPAC secretary writes a letter to directors, where their items are concerned to invite them to the next meeting and provide report-backs.
- That each director provides overview updates on the activities of their directorates.
- That according to SALGA, the MPAC may have equal party representation, i.e including EFF and COPE and that this be clarified.
- That feedback be provided on the appointment of the Gender Manager and Housing Manager.
- That the MPAC requires a report on the hawks conducting arrests at Town Planning.
- That the MPAC was of the opinion that council must give permission to MPAC to conduct investigations, but was later clarified that MPAC already has the sub-delegated powers and may choose to investigate any issue that it deems necessary.
- That project updates be submitted to the MPAC.
- That the deviation register be submitted to the MPAC.
- That in future, MPAC will submit their own agenda items.

(At this stage -15:00, the CFO entered the chamber and the chairperson requested her to leave at 15:05. Members felt that the CFO will re-enter the chamber after the Municipal Manager has entered and then account to the committee. The Municipal Manager returned to the chamber at 15:10 after which the CFO returned at 15:15).

The following responses were provided by the MM and CFO: MPAC starts working only once the AG expresses irregularities in the audit report. The AG report was submitted in time, but the committee did not form a quorum for a couple of months. The AG issued his report in November 2016 and to council in December 2016. The Annual report was circulated in January 2017 and was approved in March 2017 that included the AG report.
It was noted that project information is submitted to the IDP Committee and the deviations are submitted to council – it will be seen as a duplication of duties to submit to MPAC.

Further, that the Audit Committee’s contract ends in August. An item will go to council to extend their contract for three months and then start advertising process by December 2017.
1. **MPAC31/11/16: Appointment of MPAC Researcher**

(MA – 09.11.16) (Mrs) ZL Mahloko

*At the MPAC meeting held on 12 October 2016 it was resolved per resolution MPAC31/11/16:*

That the Chairperson consults with the Speaker enquiring whether the post of MPAC Researcher may be approved by the committee with report-back.

**AWAIT REPORT-BACK**

**MPAC17/07/17 RESOLVED:**

That the Chairperson interacts with the Speaker, Municipal Manager and Chief Financial Officer to fast-track the post advertisement and appointment.
SINCE THERE WAS NO QUORUM AT THE MEETING HELD ON 14 JUNE 2017, IT WAS AGREED THAT THE FOLLOWING ITEMS BE HELD IN ABEYANCE FOR DISCUSSION AT THE NEXT MEETING.

1. Audit Report – Opinion

(Mrs ZL Mahloko) 25 January 2017

Purpose

The purpose of this report is to present the Audit Opinion in detail to the Committee for a better/thorough understanding.

For noting /for decision by

The item/report has NOT been considered by a portfolio committee. The item is for noting by the Executive Mayor.

Background

The guidelines for the establishment of MPAC’s indicates that the committee is responsible amongst other things to deal with the audit opinion, and the recommendations for the Audit Committee.

As per the Council Resolution made in the Special Council meeting held in December 2016 the Audit Report had been referred to the MPAC for detailed discussions with management, consider the Action Plan to address the findings and monitor the progress made against the tabled action plan by means of physical verification, analysing reports and any other means practical.

It is against this background that management comments are hereby submitted to the MPAC and the Action Plan.

Annexures

Management comments

Motivation

None

Personnel implications

None

Financial Implications

None

Legal Authority and Implications

MFMA
E. DIRECTORATE REPORTS: 08.02.17

Guidelines for the establishment of MPAC

Consultation

Executive Management Team and Council Meeting

Contact Person
Mrs ZL Mahloko
Chief Financial Officer
Contact number: 053-8306500

RECOMMENDATION:

1. That the management comments on the Final Management Report as issued by the Auditor-General be noted.

2. That the Action Plan as proposed be accepted by council.

3. That the MPAC commits to monitor the execution of the plan by analysing the monthly reports that will be provided by management and report back to council.

MPAC18/07/17 RESOLVED:

That the item be withdrawn from the agenda since it is outdated.

__________________________________________________________________________

(Mrs ZL Mahloko) 25 January 2017

Purpose

The purpose of this item is to report on fruitless & wasteful expenditure incurred during the year 2015/16 as reported in the Audited Financial Statements.

Background

MFMA Section 32 (4) requires that the Accounting Officer must promptly inform the Mayor, MEC for Local Government in the Province as well as the Auditor-General of any fruitless and wasteful expenditure incurred by the municipality.

It is however reported that at this stage, no official nor councillor has been held responsible for the expenditure incurred as the matter are still due for investigation by the committee.

Annexures

Annual Financial Statements notes ANNEXURE p. 32 - 119
Motivation

None

Personnel implications

None

Financial Implications

No additional costs.

Legal Authority and Implications

MFMA – Section 32
SCM Policy
Irregular, Fruitless & Wasteful Expenditure Policy
Budget Policy

Consultation

Executive Mayor, Accounting Officer and CFO. Letters have been issued to the user departments affected to prepare submissions in the next committee meetings.

Contact Person

Executive Mayor – Cllr O M Matika
Municipal Manager – Mr G H Akharwaray
Chief Financial Officer – Ms Z L Mahloko
Executive Management Team

RECOMMENDATION:

That the MPAC investigates the reported fruitless and wasteful expenditure for purposes of making a recommendation to council, whether the expenditure incurred be written off or recovered.

MPAC19/07/17 RESOLVED:

That the item be held in abeyance for investigation at a Special MPAC meeting.


(Mrs ZL Mahloko) 25 January 2017

Purpose

The purpose of this item is to present the audit queries action plan that is aimed at addressing audit findings as contained in the management letter.
Background

MFMA Section 131 refers to the issues revised by the Auditor-General in audit reports. The section states that the municipality must address any issues raised by the Auditor-General in an audit report. It further states that the Mayor of a municipality must ensure compliance by the municipality.

The MPAC as an oversight committee assists the Mayor in completing his duties in this regard. It is based on his background that a detailed action plan is tabled in this meeting.

Annexures
Audit Action Plan

Motivation
None

Personnel implications
None

Financial Implications
See item 1 (Audit report). All other costs are budgeted for in the approved budget.

Legal Authority and Implications

MFMA – Section 129
Guidelines for the establishment of MPAC
Municipal Systems Act
MFMA Circulars on Annual Report
Council Resolution (SCM – 28.01.15)

Consultation
CFO and MPAC Chairperson

Contact Person
Mrs ZL Mahloko
Chief Financial Officer
Contact number: 053-8306500

RECOMMENDATION:

For discussion and final inputs –

1. That MPAC resolves to recommend to council to accept the tabled Audit Queries Action Plan.

2. That council shall receive monthly reports on progress made in terms of the plan.
3. That the MPAC shall submit its oversight report in line with Section 129 (1) together with the Municipal Manager’s reporting responsibility.

**MPAC20/07/17 RESOLVED:**

That the item be held in abeyance for investigation at a Special MPAC meeting.

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4. **Report on Fruitless & Wasteful Expenditure – Qtr 1 of 2016/17 Financial Year**

(Mrs ZL Mahloko) 25 January 2017

**Purpose**

The purpose of this item is to report fruitless and wasteful expenditure incurred during the first quarter of the financial year 2016/17.

**Background**

MFMA Section 32 (4) requires that the Accounting Officer must promptly inform the Mayor, the MEC for Local Government in the Province as well as the Auditor-General of any fruitless and wasteful expenditure incurred by the municipality.

It is however reported that at this stage, no official, nor councillor has been held responsible for the expenditure incurred as the matters had been submitted to the Municipal Public Accounts Committee for investigation.

**Annexures**

Quarter 1 report

**Motivation**

For tabling

**Financial Implications**

Any additional costs are to be investigated.

**Legal Authority and Implications**

SCM Policy
Irregular, Fruitless & Wasteful Expenditure Policy
Budget Policy
MFMA – Section 32

**Consultation**

Executive Mayor, Accounting Officer and CFO. Letters were also written to the user departments affected.
Contact Person
Executive Mayor – Cllr O M Matika
Accounting Officer – G H Akharwaray
Chief Financial Officer - Mrs ZL Mahloko

**RECOMMENDATION:**

That the MPAC investigates the reported fruitless and wasteful expenditure for purposes of making a recommendation to council, whether the expenditure incurred be written off or recovered.

**MPAC21/07/17 RESOLVED:**

That the item be held in abeyance for investigation at a Special MPAC meeting.

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5. **Report on Fruitless & Wasteful Expenditure – Qtr 2 of 2016/17 Financial Year**
(Mrs ZL Mahloko) 25 January 2017

**Purpose**

The purpose of this item is to report fruitless and wasteful expenditure incurred during the second quarter of the financial year 2016/17.

**Background**

MFMA Section 32 (4) requires that the Accounting Officer must promptly inform the Mayor, the MEC for Local Government in the Province as well as the Auditor-General of any fruitless and wasteful expenditure incurred by the municipality. It is however reported that at this stage, no official, nor councillor has been held responsible for the expenditure incurred as the matters had been submitted to the Municipal Public Accounts Committee for investigation.

**Annexures**

Quarter 2 report  

**Motivation**

None

**Financial Implications**

The interest/penalties had been paid against the budget appropriated for the principal expenditure, and this was not provided for. However, the expenditure as paid does not require an adjustment budget as per MFMA Section 29.
Legal Authority and Implications

SCM Policy
Irregular, Fruitless & Wasteful Expenditure Policy
Budget Policy
MFMA – Section 32

Consultation

Executive Mayor, Accounting Officer and CFO. Letters were also written to the user departments affected.

Contact Person
Executive Mayor – Cllr O M Matika
Accounting Officer – G H Akharwaray
Chief Financial Officer - Mrs ZL Mahloko

RECOMMENDATION:

That the MPAC investigates the reported fruitless and wasteful expenditure for purposes of making a recommendation to council, whether the expenditure incurred be written off or recovered.

MPAC22/07/17 RESOLVED:

That the item be held in abeyance for investigation at a Special MPAC meeting.

6. Presentation of the latest Audit Committee Minutes
(Mrs) ZL Mahloko 25 January 2017

Purpose

The MPAC is an oversight committee that needs to have sight of the Audit Committee minutes and reports to monitor the implementation of the Audit Committee recommendations.

Background

None

Annexure description
Minutes of Audit Committee: November 2016

Personnel Implications

None
E. DIRECTORATE REPORTS: 08.02.17

Financial Implications

None

Legal Authority and Implications

None

Consultation

CFO and Audit Manager

Contact Person
Mrs ZL Mahloko
Chief Financial Officer
Contact number: 053-8306500

FOR INFORMATION

MPAC23/07/17 RESOLVED:

That the item be held in abeyance for submission of annexure p.124.
1. **Irregular Expenditure Policy**

Ms ZL Mahloko

**Purpose**

The purpose of this item is to present the policy on Irregular Expenditure to the committee for information.

**Background**

The Municipal Public Accounts Committee is an oversight committee as per the terms of reference document already presented to the committee. As such, it is responsible for the investigation of unauthorised, irregular, fruitless and wasteful expenditure identified throughout the financial year, and as such, make recommendations to Council. The Council adopted an Irregular Expenditure Policy which guides the Accounting Officer and the Chief Financial Officer with regards to the processes of identifying and reporting of such expenditure.

**Annexure Description**

Irregular Expenditure Policy

**Personnel Implications**

None

**Financial Implications**

None

**Legal Authority and Implications**

MFMA 56 of 2003
Terms of reference of MPAC
Guidelines for the establishment of MPAC’s in Municipalities

**Consultation**

No consultation was necessary as the policy is presented as a reference to the items in the agenda.

**Contact Person:**

Ms ZL Mahloko
Chief Financial Officer
Contact number: 053-830 6500

**FOR INFORMATION**

MPAC24/07/17  **RESOLVED:**

That the item be noted within the committee since it already has been approved by council.
F. DIRECTORATE REPORTS: 08.03.17

2. Irregular, fruitless & wasteful Expenditure
Ms ZL Mahloko

Purpose
The purpose of this item is to report irregular, fruitless and wasteful expenditure as reported in the audited financial statements of the municipality for the period ended 30 June 2016.

Background
In terms of disclosure requirements, the Accounting Officer is required to disclose in the financial statements any expenditure that did not meet the minimum compliance requirements in terms of the approved supply chain management policy.

In terms of MFMA, Irregular expenditure, in relation to a municipality or municipal entity, means—

a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170;
b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;
c) expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998 (Act No. 20 of 1998); or
d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality’s by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of “unauthorised expenditure”;

Whilst fruitless and wasteful expenditure is defined as;

“fruitless and wasteful expenditure” means expenditure that was made in vain and would have been avoided had reasonable care been exercised;

The municipality has an approved policy on identification, reporting and consequence management with regards to irregular expenditure.

As such, irregular expenditure identified during the 2015/16 had been reported as required. It is therefore presented to the committee for investigation and recommendations to Council. Based on the assessment made, none of the irregular expenditure incurred was as a result of fraud and corruption but rather non-compliance with SCM at the time of procurement of such goods and services. It is also as a result of suppliers who failed to disclose their relatedness with people in service of state or that the suppliers are in service of state.

Included in the list of irregular expenditure, it also includes overpayment of salaries made to Councillors during 2007/2008, when implementing the upper limits. This matter had been tabled to the MPAC and was since referred back to the Committee by Council.
Annexure Description
Financial Statements note on Irregular, fruitless and wasteful expenditure

Personnel Implications
None

Financial Implications
None, as the item is presented for investigation by the committee

Legal Authority and Implications
MFMA 56 of 2003
Supply Chain Management Policy
Irregular Expenditure Policy
Format for the preparation of Annual Financial Statements

Consultation
Executive Mayor, EMT and Financial Services Directorate

Contact Person
Ms ZL Mahloko
Chief Financial Officer
Contact number - 053-830 6500

FOR DISCUSSION

MPAC25/07/17  RESOLVED:

That the item be held in abeyance for investigation at a Special MPAC meeting.
1. **Fruitless and Wasteful Expenditure Reported in Financial Statements 2016**
   
   (CFO: Ms Z.L. Mahloko)  
   19 April 2017

**Purpose**

The purpose of this report is to submit fruitless and wasteful expenditure as reported in the financial statements 2017, for investigation and recommendation to Council.

**For noting / for decision by**

The following options exist in terms of noting / for decision by:

- Council (to approve)

The item/report has been considered by a portfolio committee.
This item is for recommendation by the Executive Mayor to Council.

**Background**

The Municipal Finance Management Act 56 of 2003, Section 131 deals with “Issues raised Audit General in Audit Report”. Sub-section 1 (one) requires that the municipality must address any issues raised by the Auditor General, and that the Mayor of the municipality must ensure compliance with this sub-section.

Community Services directorate in conjunction with the Finance Department invited bidders for the valuation of landfill site and determination of provision for the costs of rehabilitation. Quotations were received to this effect and Kazia Consulting was awarded the quotation.

After series of follow with Kazia, an extension was given for the submission of the report as expected. The report was found unacceptable, lacking content and the Finance Directorate was left with no option but to solicit a new quotation to have the valuation concluded within the timelines, as the financial statements had to be submitted to EMT, Audit Committee and to the AGSA.

It was further found that Kazia submitted a claim to Community Services Directorate and were paid prior to submission of report. It is based on these arguments that the paid made was fruitless and wasteful.

**Annexures**

- Quotation for valuation of landfill site and acceptance of quotation
- Payment documents – Kazia Consulting
- Report submitted
- Report of the service provider that was subsequently appointed

**Motivation**

MFMA Section 32 requires that fruitless and wasteful expenditure must be investigated, depending on the outcomes of investigations, that the committee appointed by Council to conduct investigations make recommendations to;
- Recover the expenditure from officials or councillors involved
- Recommend write off of fruitless and wasteful expenditure

Due to fact that the information as highlighted by the AGSA was not available or relevant at the time of procurement, and with evidence that corrective actions had since been put in place, that the committee recommends write off of the irregular expenditure incurred.

Personnel Implications

In implementing the action plan, only internal personnel shall be responsible, where contractors will be appointed, this will be in line with supply chain management policy of the municipality.

Financial Implications

There shall be no additional financial implications, other than as budgeted for.

Legal Authority and Implications

The Municipal Finance Management Act 56 of 2003

Consultation

The Municipal Manager, all Executive Directors and Senior Managers were consulted.

Contact Person

Chief Financial Officer: Ms. Z.L. Mahloko

For enquiries
Chief Financial Officer – Z.L. Mahloko

At the MPAC meeting held on 14 June 2017 it was agreed per resolution MPAC15/06/17:
That the item be held in abeyance for investigation at a Special MPAC meeting scheduled for Wednesday, 21 June 2017 at 14:00.

RECOMMENDATION:

That MPAC investigates the fruitless and wasteful expenditure incurred as a result of the sub-quality report received from the service provider after having been paid for the work, an amount of R150 000.00 and that the committee make recommendations to Council based on its findings in this regard.

MPAC26/07/17 RESOLVED:

That the item be held in abeyance for investigation at a Special MPAC meeting.
1. Submission of Section 71 Monthly Budget Statement: May 2017

(Mrs) ZL Mahloko  
15 June 2017

Purpose

The purpose of this report is to submit the monthly budget statement for the month of May 2017.

Background

The guidelines for the establishment of MPAC’s requires that the committee be provided with the monthly budget statement submitted to the Executive Mayor for interrogation or request for more detailed information it is for the fulfilment of this requirement that the report is submitted.

Annexure description

Monthly Budget Statement – May 2017

Financial Implications

None

Legal Authority and Implications

Guidelines for the establishment of MPAC; MFMA 56 of 2003; Terms of reference of MPAC

Consultation

Chairperson of MPAC, CFO and Accounting Officer

Contact Person

Mrs ZL Mahloko
Chief Financial Officer
Contact number: 053-8306500

FOR INFORMATION

MPAC27/07/17  RESOLVED TO RECOMMEND TO COUNCIL:

That the report be noted.

The meeting closed at 16:00.