

OVERSIGHT REPORT 2022/2023



**REPORT OF THE MUNICIPAL PUBLIC
ACCOUNTS COMMITTEE**

OVERSIGHT REPORT ON THE ANNUAL REPORT 2022/2023

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1. ACRONYMS

AGSA	Auditor-General South Africa
EPWP	Expanded Public Works Programme
NLM	Ntabankulu Local Municipality
FY	Financial Year
IDP	Integrated Development Plan
LED	Local Economic Development
MPAC	Municipal Public Accounts Committee
M & E	Monitoring and Evaluation
MIG	Municipal Infrastructure Grant
MFMA	Municipal Finance Management Act
EXCO	Executive Committee
NDP	National Development Plan
NKPA	National Key Performance Areas
OCA	Operation Clean Audit
PMS	Performance Management System
SDBIP	Service Delivery Budget Implementation Plan
SPU	Special Programmes Unit
SMME	Small Micro Medium Enterprises

2. EXECUTIVE SUMMARY BY THE CHAIRPERSON

In terms of MFMA Circular 32, the Ntabankulu Municipal Council is legally mandated to perform the oversight responsibility over the executive and administration of the municipality. This oversight role, though remains the function of the Council, is sub-delegated to the Municipal Public Accounts Committee (MPAC), a section 79 committee of council. The oversight mandate is supported by numeral legislative directives including, but not limited to, the Constitution of the Republic of South Africa, the Local Government: Municipal Structures Act, 117 of 1998, as amended, the Local Government: Municipal Finance Management Act, 56 of 2003 (MFMA) and the Local Government: Municipal Systems Act, 32 of 2000 (MSA).

The Municipal Council received an unaudited Draft Annual Report of 2022/2023 at its Ordinary Council Meeting held on the 31st August 2023. The council considered the unaudited Draft Annual Report and subsequently referred it by a resolution to the MPAC for further analysis and/or review of the content. The MPAC's ultimate mandate was to conclude the annual reporting cycle by drafting and submitting this Oversight Report on the Annual Report.

However, it must be noted that this is the third Oversight Report for the five-year term of Council between 2021-2026 on the Annual Report. For 2022/2023 financial year, this Oversight Report is the last stage towards the completion of the annual reporting process of a municipality for the year under consideration. The oversight report is ultimately tabled to Council for approval as required by section 129 of the MFMA. The Municipal Public Accounts Committee of Ntabankulu Municipality, through this Oversight Report is thus duly fulfilling its oversight responsibility, a mandate justly assigned by the legislation to the Council. It must be noted that the Council when delegating its oversight mandate, firstly approved the Terms of Reference for the MPAC. The MPAC's mandate includes, but not limited to, the analysis of the municipality's quarterly and annual performance reports and the development of appropriate recommendations to Council for approval. The Municipal Public Accounts Committee, in considering the 2022/2023 Annual Report arranged a series of meetings that were perhaps open to the public and media. This was done in terms of the

provisions of section 20(1) of the Municipal Systems Act, 32 of 2000. The main objective for opening the MPAC meetings to the public was to ensure that the MPAC subscribed to the notion of transparent and credible oversight process when considering the annual report.

The dates for MPAC meetings wherein the committee considered the Annual Report for 2022/2023 are indicated below:

- I. 02-06 October 2023
- II. 28-30 November 2023
- III. 22-23 January 2024

Moreover, the 2022/2023 Annual Report was considered following an intensive consultation processes, *inter alia*; (1) presentation of the annual report to the public during the Exco Outreach conducted on the 14th-17th November 2023, the Executive Committee (EXCO) and MPAC led by the Honourable Mayor used the Annual Performance Report to account to the public and (2) begin the IDP forward planning process. The MPAC further embarked on projects visit programme, which was undertaken on the 4th -8th September 2023. The programme provided a platform to the members of the public to make verbal comments and / or submissions thereof on the quality and standard of services provided during the year under review. The MPAC further summoned the management to provide more information on certain clarity seeking questions within the annual report on the 28-30 November 2023.

The Municipal Public Accounts Committee noted with appreciation the improved performance of the municipality, especially with the receipt of Unqualified Audit Opinion. In the previous financial year, the municipality received a Qualified Audit Opinion. The committee was impressed by the performance of the municipality on the predetermined IDP objectives. The MPAC further noted that Auditor-General South Africa raised two matters of emphasis on the Annual Financial Statements as compared to six matters of emphasis to the previous financial year. The overall Annual Performance of the institution was detailed as follows:

- Development Planning was at 78%
- Technical Services was at 84%
- Corporate Services was at 97%
- Financial Management Services was at 96%
- Community Services was at 97%
- Management Services was at 95%

The overall performance of the institution for 2022/2023 financial year was 89%, and the difference of 1% compared to 88% of the previous financial year.

Finally, I am pleased with the good work done by the management of the municipality on performance information and financial statements that resulted to the receipt of *Unqualified Audit Opinion*.

I would also like to thank the MPAC members, the Speaker and the Council Support staff for their tireless efforts and support in the oversight process for the MPAC. Furthermore, a word of gratitude also goes out to the management, especially the Municipal Manager, Chief Financial Officer, and Directors, who have provided strategic support to the MPAC during the annual report oversight process.

Lastly, it is certainly possible to achieve clean audit, and it must remain a commitment of the municipality to project achieving clean audit. All what is required is a concerted effort and a teamwork from both management and political leadership of the institution. The Auditor-General SA has once again definitely affirmed this commitment, and confirmed the receipt of sufficient, fairly presented performance information and appropriate audit evidence, something that served as the basis for the audit opinion.

Additionally, the AGSA indicated that the AFS submitted for auditing were not prepared in all material respects in accordance with the requirements of section 122 (1) of the MFMA. The AGSA's report underlined matters of emphasis on compliance with specific matters in key legislation in the Annual Financial Statements for the 2022/2023 financial year. The AGSA also expressed two qualification paragraphs in the annual financial statements. The two emphasis of matters include restatement of corresponding figures, and contribution allowance for impairment-receivables.

The committee observed that the AGSA raised matters of emphasis as detailed below:

- Restatement of corresponding figures- as disclosed in note 46 to the financial statements, the corresponding figures for 30 June 2022 were restated as a result of an error in the financial statements of the municipality at, and for the year ended, 30 June 2023.
- Contribution allowance for impairment-receivables- as disclosed in note 29 to the financial statements, contribution allowance for impairment of R7.6

million was incurred as a result of a significant number of debtors not paying the accounts.

The institutional performance on predetermined IDP objectives improved as compared to the previous financial year. The MPAC proposes that the council must advance good relations with both the AGSA, and provincial treasury. This must be done in good faith to ensure that the municipality receives proper and necessary support to further eliminate the audit findings with the absolute objective of achieving clean audit. Finally, the management should constantly interact with provincial treasury for urgent transfer of financial commitments made by state departments to the municipality. The management must further strengthen relations with the Audit Committee and Internal Audit Unit, and this must be done to keep aspirations to realise clean audit as a reality and improvement for the performance continuum on the financial management and provision of services.

COUNCILLOR A. ZAKHABANA

CHAIRPERSON

3. PURPOSE OF THE REPORT

The purpose of this report is to submit to the Council an Oversight Report on the Annual Report of 2022/2023. This Oversight Report is a remarkable milestone that enables the MPAC to discharge its oversight responsibility when considering the Ntabankulu Municipality's Performance Information for 2022/2023. This report also presents the findings and recommendations of the MPAC to Council for adoption of the Oversight Report and the Annual Performance Report for 2022/2023.

4. BACKGROUND

4.1. Annual Report 2022/2023

The 2022/2023 Unaudited Annual Performance Report of the Ntabankulu Local Municipality (NLM) was tabled before the Council on the 31st August 2023. The annual performance report presented a good picture about the municipality's predetermined IDP objectives.

The MPAC observed that the 2022/2023 Annual Report was prepared in compliance with the provisions of the Municipal Finance Management Act, 2003 (MFMA) and MFMA: Circulars, 11, 32 and 63. It worth to note that the intention of the MFMA is to modernize budget and financial management while simultaneously promoting transparency and accountability for the fiscal and financial affairs of the municipality. The annual report gives a determination to the Annual Reporting. The MFMA is firmer than Municipal Systems Act requirements. In terms of Section 127(2) of the MFMA, the municipalities are required to prepare and submit annual reports against the promises made in the IDP, service delivery and budget implementing plans (SDBIP) and other supporting planning documentations.

As stated earlier, the 2022/2023 Unaudited Annual Report was presented to Council on the 31st August 2023 by the mayor. Section 127 (2) of the MFMA directs that "the mayor must submit the Annual Performance Report of the municipality within a period of seven (7) months after the end of the financial year". Subsequently, the audited annual report was submitted by AGSA on the 25 January 2024 to council. However, the draft of 2022/2023 Unaudited Annual Report was submitted to Council in time, as a working document, on the 31st August 2023.

The MFMA: Circular 63 provides a new Annual Report Format and serves as a guide for the completion process of the annual reporting. The MFMA: Circular 63 streamlines the Annual Report process and provides the timeline for the adoption of the Oversight Report on the Annual Report by the Municipal Council before going on recess, which means that this process must be completed in December not January of the following Calendar Year as the MFMA initially provides. The delays to comply with the circular were due to late release of the signed Audited Annual Report by AGSA, as the report was received by the council on the 25 January 2024.

5. THE PURPOSE OF THE MPAC OVERSIGHT REPORT

It is important to comprehend that the oversight function of the Council over the executive and administration is not an event, but rather a process that unfolds throughout the course of the financial year, and ideally this is aimed to ensure the checks and balances. Accordingly, the effectiveness of oversight by the leadership over administration would be evaluated against the continuous improved performance of the municipality. The oversight is a function that occurs at various levels within the municipality as outlined in the table below:

Table 1: Accountability Framework for Local Government

	Responsible for	Oversight over	Accountable to
Council	Approving policies, IDP and budget	Mayor & EXCO	Community
Mayor	Policy, budgets, service delivery outcomes and Management of or oversight over Municipal Manager	Municipal Manager	Council
Municipal Manager	Outputs and implementation of policies and SDBIP	The Administration	Mayor
CFO and Senior Managers	Outputs and implementation of SDBIP	Financial Management and Operational Functions	Municipal Manager

The Oversight Report completes the annual reporting cycle, and it is the final major step in the annual reporting process of a municipality. Section 129(1) of the MFMA requires that the Council must consider the annual performance report of its municipality and adopt an “oversight report”, which contains the MPAC’s comments on the annual performance report.

The Oversight Report also discloses the level of success or otherwise, obtained in the implementation of the SDBIP outcomes of the municipality and meeting the priority needs and stated desires of the community as contained in the IDP.

6. THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

6.1. Composition of the Committee

The National Treasury: MFMA Circular (National Treasury issued Circular No.32 dated 15 March 2006) acknowledges the difficulties that could be experienced in trying to discuss the Annual Report within a full council meeting/s. This then follows to say that the Council must consider establishing an Oversight Committee hereinafter referred as Municipal Public Accounts Committee (MPAC) as provided in terms of Section 129(4) of the MFMA, to discuss the Annual Report, and later submit the Oversight Report to the Council for adoption.

Therefore, the Council of Ntabankulu Local Municipality abides with the provisions of Section 129(4) of the MFMA and established the Municipal Public Accounts Committee by way of resolution on the 30 November 2021 and appointed five members including the Chairperson [4 ANC members, and 1 AIC member from the opposition]. The council further adopted the Terms of Reference for the MPAC. The council also authorized the MPAC to review the Annual Work Plan for purposes of considering and evaluating the content of the AGSA’s audit report and conclude the Oversight Report for subsequently submission to the council for adoption of the oversight reports in the form of recommendations.

The Council further acknowledged that it has the responsibility to oversee the performance of the municipality as mandated by the Constitution, Municipal Finance Management Act (MFMA) and Municipal Systems Act. These legislation prescripts recognize that the council has a critical role to play in terms of oversight to ensure better performance by the municipal departments.

The Council, as a standard procedure approved the IDP, budget and SDBIP. The SDBIP serves as a linkage between the strategic goals, set by the council through the integrated development plan (IDP) that are translated into the budget, targets, indicators and the delivery of those goals, and successively reported in the annual report.

The Council meeting convened on the 30th November 2021, therefore established the new MPAC as a mechanism to enable all councilors and the members of public to fully digest and discuss the annual report contents and suggest, where possible, better ways to improve service delivery.

With reference to the National Treasury: MFMA Circular No. 32 dated 15 March 2006, the role of MPAC is to analyze and review quarterly, half-year and annual reports in details and recommend to Council on whether to adopt or reject the quarterly, half-year or annual report.

Key to this responsibility, the MPAC is authorized to ensure that both the executive and administration are held accountable for their actions and performance for the entire municipality.

The MPAC for the five-year term of 2021-2026 is made up of the following five non-executive councillors:

Table2: MPAC members for 2021-2026

Name of Committee Member	Designation / Representing
1. A. Zakhabana	Chairperson
2. S.W. Sopaqa	Councillor
3. P.M. Ndabeni	Councillor
4. N. Sidudu	Councillor
5. N. Daniel	Councillor

The MFMA assumes a separation of roles and functions between councillors serving on the executive (i.e. executive committee) and non-executive councillors.

This separation of powers is imperative to ensure checks and balance within the municipality. The council, through MPAC performs oversight on the performance of specific responsibilities and delegated powers to the mayor or executive committee.

6.2. Authority of the Committee

The Municipal Public Accounts Committee is a Council Committee, which is established in terms of sections 33 and 79 of the Municipal Structures Act, No. 117 of 1998 read with MFMA Circular 92 of April 2018. Therefore, the MPAC in terms of line of accountability, accounts directly to the Council.

6.3. Legislative/ Statutory Requirements

The following legislative framework is applicable to improve the quality of Annual Reporting:

- 6.3.1. The Constitution of the Republic of South Africa, 1996
- 6.3.2. The Local Government: Municipal Structures Act, No. 117 of 1998
- 6.3.3. The Local Government: Municipal Systems Amendment Act, No. 32 of 2000
- 6.3.4. The Local Government: Municipal Finance Management Act, No. 56 of 2003
- 6.3.5. The Local Government: Municipal Finance Management Act: Circular Number 11
- 6.3.6. The Local Government: Municipal Finance Management Act: Circular Number 32
- 6.3.7. The Local Government: Municipal Finance Management Act: Circular Number 63
- 6.3.8. The Local Government: Municipal Finance Management Act: Circular Number 92
- 6.3.9. The Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers of 2006.
- 6.3.10. National Treasury and Department of Cooperative Governance and Traditional Affairs: Final Guidelines for the Establishment of Municipal Public Accounts Committees, August 2011.

7. EXPOSITION OF FACTS AND PROPOSALS

7.1. Circulation of the Annual Report and Oversight Report Process

Section 127(2) of the MFMA states “the mayor of the municipality must, submit the Annual Performance Report of the municipality within a period of seven (7) months after the end of the financial year”. On the 31st August 2023, the mayor submitted an unaudited annual report to the council, which was the record of the implementation of the budget and the financial state of affairs of the municipality”. The MFMA: Circular 63 further directs the

council to effectively consider the report and to finalize its oversight report within 7 days of receipt of Auditor-General's audit report, less than a month after it was tabled before the council.

It is worth to note that in compliance with provisions of the MFMA and Circulars 32 & 63, the Ntabankulu Local Municipality's unaudited annual report was tabled in the council meeting held on the 31st August 2023, as prescribed in terms of section 121(3) (a-k) of the MFMA.

The oversight function started immediately and was intensified by the EXCO Outreach (conducted on the 14-22 November 2023) and MPAC projects visit processes (4-8 September 2023).

The MPAC also played its oversight and assessed the *Unaudited Annual Report* as it was tabled by the mayor to Council on the 31st August 2023, and referred it to MPAC by a way of a resolution. The Accounting Officer further made public the Unaudited Annual Report on an advertisement, which was placed in the *Izwi le Africa* (see *Annexure E*), a local newspaper published on the 8th September 2023.

The advert was meant to alert the public about the availability of the annual report and afford the members of the public an opportunity to submit written comments and/or objections on the annual report within 21 days, from the date of the publication. The copies of the Annual Report were circulated and made available at the Reception, Ntabankulu Local Municipal Offices, Erf 85 Main Street, Ntabankulu, and additional copies were placed in the municipal library, and municipal buildings of Ntabankulu Local Municipality.

Subsequently after the closing date of the advert, the 30th September 2023, there were no written public comments and/or objections received by the municipality. Furthermore, the MPAC formulated an itinerary to visit projects that were implemented during the financial year under consideration, and seventeen (17) high value projects were visited, as they were reported being completed in the annual report; these projects include, Habu Access Road, Nkonyameni Access Road, Cerdaville Preschool and Mazeni Poultry Farming.

The verbal comments were solicited from the benefiting communities, chiefly represented by the project steering committees (PSCs) members, traditional leadership, and ward

committees. The verbal comments were received and consolidated during the public hearings and summarized in item 8 below.

It is worth to note that in compliance with provisions of the MFMA, the Ntabankulu Local Municipality's annual performance report was tabled in the council meeting held on the 31 August 2023. During the assessment of the Annual Report 2022/2023, the MPAC summoned the management on the 28th – 30th November 2023 to appear before the Committee and to provide an additional information. The additional information was to complement the reported performance information contained in the Annual Report. In turn, the management provided useful written responses to the Committee. The MPAC further summoned the Municipal Manager and Chief Financial Officer on the 22nd January 2024 to present additional information, which includes, but no limited to, the progress report on the development and implementation of *Management Audit Action Plan* (see *Annexure B*).

The minutes of all the MPAC meetings wherein the Annual Report was discussed are attached as formal record of the proceedings (see *Annexure A*), and the oversight function was concluded within the record time, by the 25th January 2024, but after the month of December 2023 as prescribed by Circular 63 of the MFMA.

In addition, the MPAC experienced delays in the process of completing the Oversight Report, and these delays were due to late release of the signed AGSA's report.

7.2. Applied Mechanism in Preparation for the Oversight Report

The Municipal Public Accounts Committee submitted a reviewed Annual Workplan/Schedule (see *Annexure C*) to the Ordinary Council Meeting held on the 31st August 2023 for approval, but the plan has been affected by the delays of the final AGSA's reporting time.

The MPAC followed the reviewed and approved Annual Workplan, and in considering the Annual Report, the Committee assessed the following referral documents:

1. The Ntabankulu Integrated Development Plan 2022/2023.
2. The Ntabankulu Service Delivery and Budget Implantation Plan 2022/2023.
3. The Ntabankulu Local Municipality's Annual Report of 2022/2023.
4. The Auditor-General of South Africa's Audit Report 2022/2023 (see *Annexure D*)

5. The Audit and Performance Committee's Report on the Annual Financial Statements 2022/2023 (see *Annexure E*), and
6. The Management Audit Action Plan (see *Annexure B*).

It is worth to note that the MPAC was assigned to evaluate the content of the annual performance report for the municipality by way of a resolution, which was taken in the Ordinary Council Meeting held on the 31st August 2023, in which the unaudited annual report was tabled. The first step for the MPAC to consider the annual report was to adopt an approach, and to embark on scrutinizing the annual report with the support of the relevant referral documents.

The applied approach adopted by the MPAC, was to consider the following two key issues:

- (1) To scrutinize the Annual Performance Report of 2022/2023; and
- (2) To formulate recommendations to be presented to the Council for adoption of the Oversight Report on the Annual Report of 2022/2023.

Therefore, in the process of reviewing and analyzing the Annual Report, the MPAC allowed the management to present a summary on the performance management in accordance with the predetermined IDP objectives.

The management further presented the Institutional Performance Report, and this was presented per directorate/ division as against the available information (see paragraph 9 table below).

8. SUMMARY OF COMMENTS RECEIVED FROM THE COMMUNITY DURING PROJECT VISIT

The MPAC developed an itinerary to evaluate procedures on reported performance information for selected development priorities of the municipality. On the 4th – 8th September 2023, the MPAC visited the projects that were implemented by the municipality in various wards during the financial year under consideration for purposes of assessment and evaluation in order to check the quality and value for money against the actual work reflected in the annual report. During the projects visit, the MPAC also met with the members of the community i.e. project beneficiaries in order to establish their level of satisfaction and have a feel on the impact with regard to the completed projects against their initial needs for the programmes or initiatives.

The committee noted with concern that some of the capital projects implemented during 2022/2023 overlapped to 2023/2024 financial year. The following high value projects were

selected among other projects for the MPAC site visits and the public comments were solicited thereon as follows:

8.1 Habu Access Road: Construction of 7km gravel access road and related stormwater management.

MPAC Comments:

The MPAC noted with concern that the community complained about the quality of the road, this includes the size that is smaller than the standard of 5m width and that municipal technicians was always in defence of the contractor. The MPAC raised a concern about the quality of the quarry material used for graveling, as the stone was uncrushable to finer sizes by the machinery on site. The Project Steering Committee meetings did not sit to allow the community members to raise their concerns. The community was not satisfied with the quality of the project.

Management Response:

Restrictions were experienced in sections where there's a large and hard rock on the hillside. However, the width of the driveway in those sections is not less 5m. In other sections where there are no limitations the road prism is 7m.

Regarding the loose material, the borrow pit that was nearby and with material that can be crushed to smaller sizes and had fines got depleted. However, the contractor made strides to compact the material. An alternative borrow pit was further than the site and would be costly to haul material from it.

8.2 Ngonyameni Access Road: Construction of 5.1km gravel access road and related stormwater management

MPAC Comments:

The committee had a concern about the completion of the road, which was at 80% of the work done as there was an outstanding work of slabbing for the project to be completed, but the technician reported that the road was complete. The MPAC observed that there were no pipes installed in some areas. The quarry material used for gravelling was not compacted as a result, the stones were scattered alongside of the road. The community complained about the PSC meetings that did not sit and the contractor did not communicate with the PSC members regarding the project. The road was at completion

stage with 20% outstanding, but the committee noted major defects that might cause accidents especially during rainy days.

Management Response:

Management noted the concerns raised by the MPAC. The concerns were shared with the Engineer and the Contractor. As such they were attended. The contractor brought back the processing team and compacted the road to the required standard. Cleaning along the road was also done.

The project reached practical completion by end December 2023.

8.3 Paving of Ntabankulu Business Area Ring Road: Construction of 0.8km block paved road and related stormwater management.

MPAC Comments:

The committee noted that there was unsupplied material by the service provider and the project was not complete. The MPAC requested the scope of work and proof of evidence (POEs).

Management Response

Management acknowledges the comments noted by the MPAC. The material required for the project was delivered. The project was successfully completed in November 2023 . The project is now at retention stage.

8.4 Rehabilitation of 4.6km Ndakeni Access Road

MPAC Comments:

The scope of work is the rehabilitation of access road and construction of stormwater control facilities, erosion control measures, and installation of road signs at ward 6. The committee noted that there was progress on the construction of the road as the contractor was on site on the date of project visit. The committee was satisfied with the progress of the project.

8.5 Rehabilitation of 8.5km Dambeni Access Road

MPAC Comments:

The scope of work was the rehabilitation of access road and construction of stormwater control facilities, erosion control measures, and installation of road signs at Ward 8.

The committee noted with concern that the project was at blading stage and contractor was operating at slow pace, something that might delay the completion of the project as a rainy season is about to start. The road looked like a virgin road and the contractor might find

challenges during rainy days as the road had been badly damaged and some areas would need a slab of which that was not incorporated in the scope of work.

8.6 Rehabilitation of 4km Mbhongweni -Ndlantaka Access Road-ward 17

MPAC Comments:

The scope of work was the rehabilitation and construction of stormwater control facilities, erosion control measures, and installation of road signs. The committee noted that the construction of the road was progressing well.

8.7 Mazeni Poultry Farming-ward 19

MPAC Comments:

The MPAC noted that the scope of work included fencing of poultry house, construction of ablution facilities. The committee noted that the fencing was good, and the ablution facilities were properly constructed and the beneficiaries were happy about the poultry house constructed by the municipality.

8.8. Ndikhoyo PTY(LTD)-ward 17

MPAC Comments:

The committee noted that the project was functional, owned by the youth and the beneficiaries were provided with vegetable seedlings. The beneficiaries were satisfactory with the project.

8.9. Construction of Cedarville Pre-School-ward 14

MPAC Comments:

The committee noted that the pre-school was recorded as complete although there were issues of concerns, including poor workmanship on fencing and ablution facilities. Pre-school is electrified, but not energized

8.10. Supply and delivery of building material for Amacwerha traditional council-ward 3

MPAC Comments:

The committee observed that there was no material supplied and delivered for the project.

8.11. Supply and delivery of building material for Amanci traditional council-ward 11

MPAC Comments:

The committee noted that the material that was previously delivered was still on site, but not utilized for the intended purpose.

8.12. Supply and delivery of office equipment for Lwandlel'ubomvu traditional council-ward 5 (2 office desks, 6 armed chairs, 2 revolving chairs, 1 HP office jet pro printer)

MPAC Comments:

The committee could not access the premises as they were locked.

8.13. Supply and delivery of building material for Xesibe traditional council-ward 18

MPAC Comments:

The committee visited Gxwaleni J.P.S. that is being constructed using the material provided to the Traditional Council. The MPAC saw the material of 12 pillars, door frames, 8 widow frames and size 0,3 x80 corrugated iron. The beneficiaries were satisfied with the project.

8.14. Sewing Industrial Machine and Woodworking Equipment for Amaqhawe Esizwe Disabled Project-ward 10.

MPAC Comments:

The committee visited the Amaqhawe Esizwe Sewing Project, a project owned by disabled people. The MPAC noted with concern that the Amaqhawe Esizwe was the only project of the people with disability supported by the municipality. The beneficiaries were satisfactory and appreciate the support provided by the municipality.

8.15. Baking Equipment for Sibanye Elderly Project-ward 10

MPAC Comments:

The committee visited the Sibanye Elderly Project and met the chairperson of the project, who appreciated the support provided by the municipality.

8.16. Provision of seedlings to Luncedo Elderly Project at ward 02

MPAC Comments:

The Committee noted with concern that the Luncedo Elderly Project Cooperative, as an entity does not have a garden to plant the seedlings, but the members used their private gardens.

9. MPAC DELIBERATIONS AND RECOMMENDATIONS ON THE ANNUAL REPORT

Table:3 Recommendations of the Annual Report

Performance Area	Issue (Supposition)	Recommendation
Annual Financial Statements	The MPAC wanted the assurance on completion and submission of Annual Financial Statements to AGSA for audit purposes.	<p>The MPAC observed that the Audit Committee submitted a report on the status of the AFS to assure the Council of the AFS authenticity. The Audit Committee report was presented to the Council meeting of the 31st August 2023 (see Annexure F). The Audit Committee assured the Council that the Annual Financial Statements (AFS) were fairly presented in all material respects, and were being GRAP compliant and certainly met the requirements of MFMA and DoRA. The MPAC further used the AGSA’s report together with the Audit Committee Report for purposes of assurance on the Annual Financial Statements performance.</p> <p>The MPAC further noted that the AFS were submitted in time to the AGSA for audit purposes. The MPAC commended the municipality for submitting the Annual Financial Statements (AFS) report to AGSA for audit purposes within the record time.</p> <p>Furthermore, the MPAC resolved to consider the AGSA’s Report and observed that there were material findings on the Annual Financial Statements for 2022/2023</p>

		<p>expressed by AGSA, on two matters of emphasis, but these matters of emphasis had no effect on the AGSA’s opinion. The emphatic matters included the following:</p> <p>(1) Restatement of corresponding figures, and (2) contribution allowance for impairment-receivables.</p>
Audit Opinion	The MPAC noted with appreciation that the Auditor-General SA’s report for 2022/2023 signaled improvement in the audit opinion and the municipality received an <i>Unqualified Audit Opinion</i> .	The MPAC was pleased by the municipality’s performance on the annual financial statements by receiving the <i>Unqualified Audit Opinion</i> with two emphasis of matters that did not modify the AGSA’s opinion.
Annual performance of the municipality on predetermined objectives	The MPAC considered the institutional performance on predetermined IDP objectives.	The MPAC noted that the AGSA performed audit on reported performance information. The audit included procedures to determine whether the indicators and related targets were measurable and relevant. The MPAC observed that the AGSA did not express a qualified audit opinion on the performance information and indicated the usefulness and reliability of the performance information of the selected development priority on service delivery. The MPAC observed that the institutional performance on predetermined objectives for 2022/2023 Annual Report was rated per directorate as

		<p>follows:</p> <ul style="list-style-type: none"> • Corporate Services Directorate performed at 97%; • Community Services Directorate performed at 97%; • Development Planning Directorate performed at 78%; • Management Services performed at 95%; • Financial Management Services 96% • Technical Services Directorate performed at 84%. <p>The committee noted that the overall institutional performance as reflected in the audited annual performance report of the municipality was 89% for 2022/2023, and increased with 1%, as compared to 88% of the previous financial year of 2021/2022.</p> <p>Therefore, the MPAC recommends that the municipality must ensure that in the process of developing and implementing the SDBIP, the SMART principle, usefulness and reliability of the information should be adhered to, and this includes setting up realistic indicators in terms of section 41(1)(a) of the Municipal Systems Act in order to maintain the momentum.</p>
Compliance of the Annual	The MPAC assessed the content of the Annual Report for purposes of	The MPAC noted the performance information on compliance as follows:

Report with relevant legislative prescripts	compliance with the legislative directives of MFMA: Circular No. 63 dated September 2012.	<ul style="list-style-type: none"> • The NLM complied with the provisions of Sections 121(3) and (4) of the MFMA and section 46 of the Municipal Systems Act in compiling the Annual Report. • The MPAC was satisfied with the additional disclosure requirements and the extent of additional information provided by the management, especially the Audit Action Plan presented by the Municipal Manager on actions to be taken by management to address the AGSA matters of emphasis.
Tabling of the Annual Report to Council	The MPAC appreciated the timing of tabling of the unaudited annual report before the Council, which was in line with the provisions of Section 127 (2) of the MFMA.	The MPAC applauded that the Annual Report was properly consolidated and was in line with the requirements of the MFMA: Circular No.63. The Committee also noted that the Unaudited Annual Report was tabled to the Council on the 31 st August 2023.
Management Audit Action Plan	The MPAC noted the Management Action Plan, which considers the AGSA's audit report, audit opinion and the views of the Audit Committee that the council should consider as a corrective	The MPAC appreciated the corrective actions to be undertaken by the management in response to issues raised in the audit report. The MPAC accepted the accuracy of the action plan proposed with due dates to effectively address the issues raised in the AGSA's report.

	<p>measure in response to the issues raised in the audit report for both AFS and reported performance information.</p>	
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10. SUMMARY OF DELIBERATIONS ON THE ANNUAL REPORT BY MPAC

10.1. Annual Report 2022/2023

The MPAC reviewed the content of the Annual Report 2022/2023, and the MPAC worked upon given information using all referral documents including, the annual report 2022/2023, IDP, SDBIP 2022/2023, Audit Committee Report on Annual Report 2022/23, Auditor-General SA's Report 2022/2023, Management Audit Action Plan and MFMA: Circulars 11, 32 and 63.

The primary source of information was the Unaudited Annual Report 2022/2023, which was presented to the Council on the 31st August 2023, and eventually considered the audited annual report that was ultimately presented to council on the 25th January 2024. The additional information was also solicited from the responses provided by the management on matters of emphasis raised by the Auditor-General SA in the management letter.

The additional information was in the form of the Audit Action Plan presented by the Municipal Manager. Furthermore, the committee considered the AG's emphasis of matters on the Annual Financial Statements for 2022/2023 of the Ntabankulu Local Municipality.

Furthermore, the MPAC received the Audited Annual Report and acknowledged the content and compliance of the annual report, and the committee was satisfied with content of the audited annual report.

10.1.1. KPA 1-Basic Services and Infrastructure

The committee further noted with gratefulness that the AGSA indicated that the reported performance information was useful and reliable and thus qualified the reported performance information.

However, the MPAC noted with concern the overall performance of the institution, which was at 89%, and the performance inclined from 88% of 2021/2022 financial year by 1%. The

MPAC was satisfied with the reported performance information with reference to the predetermined IDP objectives and compliance with the SMART principle.

With regard to the Audit Action Plan, the responses provided by the management, as the additional information, to the clarity seeking questions raised by the MPAC were satisfactory.

11. ANNUAL FINANCIAL STATEMENTS 2022/2023

With regard to the Annual Financial Statements, the MPAC observed that the AGSA's report underlined two emphasis of matters on compliance with legislation for the 2022/2023 financial year. The AGSA expressed qualification paragraphs in the annual financial statements, and the consideration was made on the following emphatic areas of critical importance on the AFS:

11.1. Restatement of corresponding figures- as disclosed in note 46 to the financial statements, the corresponding figures for 30 June 2022 were restated as a result of an error in the financial statements of the municipality at, and for the year ended, 30 June 2023.

11.2. Contribution allowance for impairment-receivables- as disclosed in note 29 to the financial statements, contribution allowance for impairment of R7.6 million was incurred as a result of a significant number of debtors not paying the accounts.

12. Annual financial statements

The MPAC noted that the AGSA's report indicated that the financial statements submitted by the municipality were not prepared in all material respects as required by section 122(1) of the MFMA. Material misstatements of revenue and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected, resulting in the financial statements receiving an unqualified audit opinion.

13. OTHER MATTERS

13.1. Expenditure Management

The MPAC observed that the municipality did not take reasonable steps to prevent irregular, fruitless, wasteful expenditures in terms of audited AFS, the detail of the findings in the expenditure management are presented as follows:

13.1.1. Fruitless and Wasteful Expenditure

The MPAC observed that reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R0, 4 million, as disclosed in note 42 to annual financial statements, in contravention of section 62 (1) (d) of the MFMA. The majority of the disclosed fruitless and wasteful expenditure was caused by interest charged by South African Municipal Workers Union (SAMWU) National Provident Fund on arrear contributions that were paid over to Municipal Employees' Pension Fund (MEPF) instead of being paid over to SAMWU National Provident Fund.

13.1.2. Irregular Expenditure

The MPAC observed that reasonable steps were not taken to prevent irregular expenditure amounting to R24,2 million as disclosed in note 43 to the annual financial statements, as required by section 62 (1) (d) of the MFMA. The majority of the irregular expenditure was caused by contravention of supply chain management regulations.

13.1.3. Procurement and Contract Management

The MPAC noted with concern that the preference point system was not applied to some of the procurement of goods and services as required by section 2 (1) (a) of the Preferential Procurement Policy Framework Act.

The MPAC noted with concern that the performance of some of the contractors or service providers was not monitored on a monthly basis as required by section 116 (2) (b) of the MFMA.

The MPAC noted with concern that some of awards were made to the persons service who were in the service of the municipality or who had a business interest in contracts awarded by the municipality failed to disclose such interests, in contravention of SCM regulations 46 (2) (e) , the code of conduct for councilors issued in terms of Municipal Systems Act/ the code of conduct for staff members issued in terms of Municipal Systems Act.

13.1.4. Internal Controls Deficiencies

The MPAC observed that the AGSA raised finding on leadership as the significant deficiency in internal controls. Accordingly, the leadership failed to institutionalize all the disciplines necessary to enable oversight and monitoring. This was eminent in the lack of implementation of disciplines necessary to enable oversight and monitoring to promote efficiency and effectiveness in performance management and compliance with legislation. Furthermore, the AGSA noticed with concern that there were no adequate and robust systems and processes in place to monitor compliance with applicable laws and regulations to produce credible and accurate financial and performance reporting. Accordingly, the AGSA reported that the management did not respond to all the recommendations of the Audit Committee and internal audit, something that could impacted positively on the effectiveness of these governance structures. This non-response by management resulted in a modification of the audit opinion and repeat of audit opinion being raised by the AGSA.

13.1.5. Material Irregularities.

The MPAC observed that the AGSA reported material irregularities, which were identified during the audit, these material irregularities resulted from the interest charges paid by the municipality to the SAMWU between 2020/2021 and 2021/2022 financial years, which was amounting to R5.3 million. The main reason was that the municipality failed to pay over outstanding pension fund contributions from the MEPF to SAMWU within 30 days of the court order, dated 14 August 2018. The court ruling ordered the municipality to pay over all the outstanding, including interest charged. This failure to comply with the court ruling was in violation of section 65(1)(e) of the MFMA.

13.1.6 Matters under investigation

The MPAC observed that there are pending matters that are still under investigation by the Hawks, these matters include, Covid-19 related expenditure, awards of two suppliers, traffic officials and Department of Human Settlement funding to the municipality.

14. RECOMMENDATIONS ON THE ANNUAL REPORT BY MPAC

The MPAC deliberated on the Annual Report and submits the following recommendations to the Council for consideration:

With regard to the Performance Information on projects visit, the MPAC **RECOMMENDS:**

- (a) That the municipality must adopt and maintain a clear *Maintenance Plan* for the rural access roads and internal streets with the intention to repair potholes and stormwater drainages at their early stages before they are deteriorated, and also to fix the poorly constructed drainage systems, kerbs and public walkways in the municipal roads.

With regard to the Annual Report, the MPAC **RECOMMENDS**:

- (a) That the Audit Committee should constantly monitor the management performance and progress on the audit action plan. The Audit Committee should ensure that the management undertakes corrections to all matters of emphasis as raised by the AGSA's audit report for the municipality to realize the commitment to achieve clean audit.

With regard to the Annual Financial Statements, the MPAC **RECOMMENDS**:

- (a) That the municipality must ensure that there are adequate and robust internal controls in place, this includes the proper management of impairment assets, implementation of contract management system to ensure that the contracted service providers are held accountable. This should be done as a continuous in-year oversight and monitoring of the implementation of SCM regulations and policy.

- (b) That the management must exercise due diligence on contract management, and implement decisively decisions to the service providers that are under-performing, this includes regular monitoring of performance contracts with the view to obtain the intended outcomes and value for money.

- (c) That the municipal leadership must implement acceptable and vigorous internal controls, including continuous oversight at all levels. This will ensure that there is adequate implementation of consequent management.

- (d) That the irregular expenditure amounting to R24,2 million, caused by contravention of MFMA 61(d) and SCM Regulation 44 should be investigated, and the investigation report must be submitted to MPAC and ultimately to council for approval.

- (e) That fruitless and wasteful expenditure amounting to R0,4 million should be investigated, and the investigation report must be submitted to MPAC and ultimately to council for approval.

(f) That the management should develop a strategy of making debtors to pay their outstanding debtors, and categorize the residential and commercial debtors. The municipality's strategy must consider negotiating with will property owners to pay their owed debts, focusing to future rates collections whilst dealing with the outstanding debts.

(f) That the municipality must appoint an independent service provider to assist the MPAC to investigate both irregular, fruitless, and wasteful expenditure.

15. RESOLUTION AND STATEMENT

It is therefore **RECOMMENDED**:

- 15.1. That the Council having fully considered the 2022/2023 Annual Report of the municipality and comments thereon, adopts the 2022/2023 MPAC Oversight Report in terms of Section 129(1) of the Local Government: Municipal Finance Management Act, No. 56 of 2003, and
- 15.2. That the Council approves the 2022/2023 Annual Report in terms of Section 129(1)(a) of the Local Government: Municipal Finance Management Act, No. 56 of 2003 without reservations.
- 15.3. That the MPAC Oversight Report on the Annual Report of 2022/2023 for the Ntabankulu Local Municipality must be made public on the municipal website in terms of Section 129(3) of the Local Government: Municipal Finance Management Act, No 56 Of 2003.
- 15.4. That both the MPAC Oversight and Annual Reports of 2022/2023 of the Ntabankulu Local Municipality must be submitted to the Provincial Legislature in terms of Section 132(2) of the Local Government: Municipal Finance Management Act, No. 56 of 2003.

Signed:



Cllr. A. Zakhabana

MPAC Chairperson

25/01/2024

Date

16. ANNEXURES:

- I. Annexure A - MPAC Minutes
- II. Annexure B - Audit Action Plan
- III. Annexure C - MPAC Work Plan
- IV. Annexure D - AGSA Report
- V. Annexure E - AFS
- VI. Annexure F - Newspaper Article



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COUNCIL RESOLUTION EXTRACT: OCM/5/24/007.1.2

Extract 25 January 2024

Time: 10H00

Venue: Ntabankulu Municipal Hall

2022/2023 MPAC Annual Oversight Report

In an Ordinary Council Meeting held on the 25th January 2024, Honourable MPAC Chairperson, Councillor A. Zakhabana presented the 2022/2023 MPAC Annual Oversight Report before the council for adoption.

He reported that Ntabankulu Local Municipal Council is legally mandated to perform the oversight responsibility over the executive and administration of the municipality. This oversight role, though remains the function of the Council, but it has been sub-delegated to the Municipal Public Accounts Committee (MPAC), a section 79 committee of council. The oversight mandate is supported by numeral legislative directives including, but not limited to, the Constitution of the Republic of South Africa, the Local Government: Municipal Structures Act, 117 of 1998, as amended, the Local Government: Municipal Finance Management Act, 56 of 2003 (MFMA) and the Local Government: Municipal Systems Act, 32 of 2000 (MSA).

Thereafter, the Council **RECOMMENDS** that:

1. The Council having fully considered the 2022/2023 Annual Report of the municipality and comments thereon, adopts the 2022/2023 Oversight Report in terms of Section 129(1) of the Local Government: Municipal Finance Management Act, No. 56 of 2003.

2. The Council approves the 2022/2023 Annual Report in terms of Section 129(1)(a) of the Local Government: Municipal Finance Management Act, No. 56 of 2003 without reservations.
3. The Oversight Report on the Annual Report of 2022/2023 for the Ntabankulu Local Municipality must be made public on the municipal website in terms of Section 129(3) of the Local Government: Municipal Finance Management Act, No 56 Of 2003.
4. The Oversight and Annual Reports of 2022/2023 of the Ntabankulu Local Municipality must be submitted to the Provincial Legislature in terms of Section 132(2) of the Local Government: Municipal Finance Management Act, No. 56 of 2003.

Signed

V. Matwasa

26/01/2024

V. Matwasa

Date

Council Speaker

