



**OVERSIGHT REPORT OF THE MUNICIPAL PUBLIC
ACCOUNTS COMMITTEE ON THE ANNUAL REPORT
AND THE AG REPORT OF LEPELLE-NKUMPI LOCAL
MUNICIPALITY FOR THE FINANCIAL YEAR 2015/2016**

1. INTRODUCTION

Section 129(1) of the Municipal Finance Management Act (MFMA) 56 of 2003 states that the council of a Municipality must consider the 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.

The Municipal Public Accounts Committee (MPAC), through its chairperson, tables the draft oversight report on the annual report in the municipal council for discussion and resolution. The analysis and review of the annual report is based on the provisions of the National Treasury guidelines as contained in circular 32 of 2005 and the process of public consultations and hearings which took place on 16 February 2017 and 22 March 2017. No written community representations were received from the Office of the Municipal Manager and the Speaker on the AR.

MPAC is composed of the following members and role players:

- | | |
|-------------------------|-----------------|
| • Cllr. M.I Mollo | Chairperson |
| • Cllr. D.M Thindisa | Member |
| • Cllr. R.S Phele | Member |
| • Cllr. M.R Ntswane | Member |
| • Cllr. T.C Thobejane | Member |
| • Cllr. C.M Choung | Member |
| • Cllr. V.M Moganedi | Member |
| • Cllr. K.G Leshilo | Member |
| • Cllr. K.G Seribishane | Member |
| • Cllr. W.M Shogole | Member |
| • Cllr. L.L Mphahlele | Member |
| • Mr. M.S Mphahlele | Secretariat |
| • Mr. W.T Mashita | MPAC Researcher |

2. RESPONSIBILITY OF THE MAYOR

Section 127 (2) of the MFMA states that the Mayor of a Municipality must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality and of any municipal entity under the municipality's sole or shared control.

The Mayor, in terms of section 127(2) of the MFMA, tabled the annual report (AR) of the municipality in the municipal council on 25 January 2017 and the AR was referred to MPAC for a detailed analysis and review. MPAC then drafted an oversight report (OR) which is now tabled in council for discussion.

The AR tabled by the Mayor included the following components of the AR as provided for under section 121(3) of the MFMA:

- The annual performance report of the municipality prepared by the municipality in terms of section 46 of the Municipal System Act; and
- An assessment by the municipality's accounting officer of the municipality's performance against measurable performance objectives referred to in section 17(3)(b) for revenue collection from each revenue source and each vote in the municipality's approved budget for relevant financial year.
- An assessment by the municipality's accounting officer of any arrears on municipal taxes and service charges;
- Particulars of any corrective actions taken or to be taken in response to issues raised in the audit reports in section 121(3)(b) and (d);

The AR tabled by the Mayor did not include the following components of the AR as provided for under section 121(3) of the MFMA:

- Notes of the AFS to clarify issues in connection with financial statements.
- The Auditor general's audit report in terms of section 45(b) of the MSA

The municipal council referred the annual report, as tabled by the Mayor to MPAC for consideration and submit a report to council within two months as referred to in section 129 of the MFMA

3. RESPONSIBILITY OF THE ACCOUNTING OFFICER (AO)

Section 127(5) of the MFMA states that immediately after the AR is tabled in the council in terms of section 127(2), the AO must in accordance with section 21A of the Municipal System Act (MSA) –

- (i) Make public the AR
- (ii) Invite the local community to submit representations in connection with the AR; and
- (iii) Submit the AR to the AG, the relevant Provincial Treasury and the Provincial Department responsible for local government in the province.

The AO has fully complied with the provisions of section 127(5) of the MFMA in that the AR was placed on the municipal website and advertised for submission of representations on the AR by the local community radio stations and in the Sowetan Newspaper in February 2017.

4. METHODOLOGY

MPAC executed the following procedures during consideration of the AR with a view of arriving at determination consistence with the provision of section 129(1) (a)(b) or (c)

- Perusal and analysis of the AR
- Formulation of questions for written responses by management
- Request for inputs and comments in response to the advertisement of the AR
- Request and noting of inputs and comments from community members
- Project visits
- Consideration of written responses by senior management
- Formulation of questions for oral response at public hearing
- Consideration of oral responses by senior management
- Drafting and adoption of oversight report

5. FINANCIAL MATTERS

5.1 Annual financial statements (AFS) 2015/2016.

The AFS for the municipality for the financial year 2015/2016 have been submitted to the AG on 31ST August 2016. The AO complied with the provisions of section 126(1)(a) of the MFMA in that the AFS of the municipality were prepared and submitted to the AG within two months after the end of the financial year 2015/2016

There is evidence that the Audit Committee (AC) expressed and submitted its views on the AFS to the Municipal Council.

5.2 An assessment by the AO on arrears.

An assessment by the AO on arrears on Municipal taxes and service charges is not adequate in that there is insufficient explanation on the causes of the arrears and of actions taken or to be taken to remedy the situation. Consequently, the municipal council is unable to discuss the issue in a meaningful way.

5.3 Particulars of corrective actions i.r.o of issues raised by AG.

The AR does contain particulars of corrective actions taken or to be taken in response to issues raised by the AG in 2015/2016 audit report which excluded, among others the following:

- Material impairment of Debtors and Assets;
- Material under spending of the budget;
- Inconsistencies and or irrelevance of Objectives, Indicators and targets reported in APR
- Measures taken to Improve performance not disclosed
- Failure to comply with Laws, regulations and policies
- Failure by AO to evaluate whether management implement controls as designed, and performance of internal auditors.

The AO must provide to the municipal council the audit recovery plan to be implemented to address these issues by 31 May 2017.

5.4 An assessment by the AO on municipal performance

The AO has provided an assessment or report of the municipality's performance against measurable performance objectives for revenue collection from each revenue source and for each vote in the approved budget as required by section 121(3) (f) of MFMA.

The performance of the municipality in respect of revenue and debt collection has not been met and there is no sufficient explanation of the non-achievement.

The AO must provide sufficient explanation on debt under-collection and the under-spending of conditional grants by the 31 May 2017

5.5 Recommendations of the audit committee (AC)

The AC made the following recommendations in respect of the AFS:

- Ensure that the inventory reconciliations are in order
- Revisits the grants amounts
- Agree the opening balances with the previous year closing balances
- Make notes for prior year adjustments
- Ensure that the amounts on the AFS agree with the general ledger balances
- Align water issues with what is reported at CDM

- Ensure that salaries and suspense account challenges are addressed
- Council should be notified of the missing SLA's and new SLA's be signed as the retention amount is not yet paid
- Management should ensure that actuaries variation information and calculations are in order.
- Management should ensure that supporting documents are in place and Executive Managers are available during Audit Processes

The AC made the following recommendations in respect of the annual performance report:

- Acting Municipal Manger should perform the assessment of the departments not PMS Manager
- Quality assurance on the report should be performed by Executive Managers
- Departmental performance should be in line with the actual performance of the Municipality
- Evidence should be in place to substantiate reported information
- Departmental performance should be incorporated in the report
- Service provider performance should cover all the service providers rendered service within the municipality in 2015/16 financial year not only infrastructure department
- Expenditure report in the service provider report should correspond with the expenditure in the AFS
- Rating of service providers should be defined
- Project risk assessment should be performed regularly
- Physical work performed should be outlined in the service provider performance report
- Explanation of variance and mitigations should talk to each other
- Root course for none performance should be stated in the report and mitigation completed should address the root course

Council should consider the adoption of the AC recommendations on both the AFS and the APR, ensure that all service provider's performance are rated, general performance of the institution improves, Executives attend AC meetings and none submission of documents to AC is stopped forthwith.

5.6 Allocations received and made

The AR indicates that the municipality did not comply with the conditions of most of the grants received in respect of the financial year 2015/2016. The non-compliance is reflected in the under spending by the following amounts per conditional grant:

- LED Leanership	327 926
- Municipal Infrastructure Grant:	15 859 477
- Refurbishment of Noko Tiou stadium	100 230

- Halls	6 135
- Stadium	300 000
- Integrated transport plan	500 000
- Integrated national electrification program	1 568 144

20 095 238

The AO must submit a written explanation of the above-mentioned grant under-performance, stating why steps were not taken to avoid the withholding of the grants.

5.7 Creditors of the municipality

The AR does not contain information on whether the municipality has met its statutory obligations, including the payment of taxes, audit fees and contributions to pension and medical aid funds.

The council can therefore not satisfy itself that the information has been properly disclosed in the AFS and conditions of the allocations in terms of the approved budget have been met, especially because the comments of the AG and the views of the AC are not available for use to determine the accuracy and appropriateness of this information.

The AO must submit a confirmation to MPAC and Council that the municipality has fully met its statutory obligations, including the payment of taxes, audit fees and contributions to pension and medical aid funds by 30 April 2017 to MPAC and 30 May 2017 to council respectively.

5.8 Disclosure in notes to AFS

Notes of the AFS were not attached to the annual report and they should be submitted to MPAC by 30 April 2017.

5.9 MUNICIPAL PERFORMANCE

The annual performance report (APR) of the municipality for the financial year 2015/2016 has been prepared and included in the AR as required by section 121(1) and (3) of the MFMA respectively. The AG has however found several inconsistencies in the annual report which are contained in the AG report on APR.

The performance targets set in the budget and service delivery and budget implementation plan (SDBIP) have been included in the AR. It is not clear whether all the performance targets included in the AR were included in the performance agreements since there are no performance agreements signed in contravention of institutional and individual performance management policy paragraph 2. And such performance agreements for section 57 managers must be submitted to council by 30 May 2017.

Of serious concern is that of the total number of 216 targets planned for the year, 86 of targets were not achieved and 78% of basic service delivery targets during the year under review. This represents 40% of total planned targets that were not achieved during the year under review.

MPAC noted that none of the departments achieved all the targets they have reported on. It is also difficult to determine the extent to which departments could have achieved or not achieved the set targets had there been performance contracts between the Municipality and Executive management.

6.1 Overall capital and operational performance of municipality

6.1.1. Drilling and equipping of boreholes at 13 community halls at R 3 042 301, 81

- What was the total budget for the project

Management response

The contractor billed as per the BOQ specifically for drilling and equipping the 13 boreholes a total amount of R 3 042 301.81 which can be equalled to R 234 023.22 per borehole. The total price of the project included the P&G's, pipes, storage installation, electrical pump control and equipping and drilling of the 13 boreholes. MPAC is not convinced with management explanations

6.1.2 Extension of municipal offices civic centre

- What is the total costs for the project to date

Management response

Service provider	Contract amount amount	Paid to date, incl Retention and VAT	Commitment

V Chabane	R 14 682 115.30	R 12 758 806.87	R 1 923 348.43
Tshedza/Mgijimi	R 2 601 118.98	R 1 378 122.19	R 1 222 996.78
Mohlatlego Trading enterprise	R 5 738 860.15	R 4 473 088.14	R 1 265 772.01
		R 18 610 017.20	

MPAC to investigate the matter further.

6.1.3 Refurbishment of Noko Tlou Stadium

- What was the budget allocation for the project

Due to inconsistency between management response during public hearing and progress report given to MPAC during its project visits, MPAC could not determine whether the scope of work was refurbishment or maintenance MPAC to investigate this matter further.

6.1.4 CONTRACT MANAGEMENT

Why the contract performance's monitoring measures and methods applied in monitoring the 19 contract insufficient and ineffective?

Management response- Due to high staff turnover, will only relied on this staff turnover.

6.1.5. Bidder was appointed as consultant and contractor on one project

- Why was the bidder appointed as contractor and consultant on one project?

Management response:

The Municipality had to follow internal due process of terminating the contract with KTS General Trading to avoid litigations, receive full report from the consultant regarding the work already completed and still to be completed, report the matter to council and await council resolution to

deviate from the normal procurement process for the completion of the project. And applied the turnkey approach.

6.1.5 CONTRACT AMENDMENTS WERE NOT TABLED IN COUNCIL

- Why there was no notice to inform the community of the intentions to change the original scope of work especially on Kingki Electrification contractors?

Management response:

It was an oversight, we'll ensure future adherence to the MFMA.

6.1.6 PERFORMANCE EVALUATION NOT CONDUCTED

- Why performance evaluation was not conducted

They were not conducted due to change of management in the municipality. We managed to conduct some but not for all the quarters. 2015/16 Annual and Current Midyear Performance evaluation are still to be conducted on the 10th and 11th of April 2016

6.1.7 Senior Managers and Other Officials of the municipality failed to prevent Fruitless and Wasteful Expenditure

What steps have been taken to recover R2m wasteful expenditure on the refurbishment of civic hall?

Management response:

A case of fraud has since been opened at the Lebowakgomo SAPS station on the 18 April 2016 CAS/NO: CAS245/4/2016 by the Mayor as per the adoption of the report by the council; (Resolution No. 13.1.05/2015/16)

The matter is also been investigated by the Serious Corruption Investigation Unit of SAPS.

6.1.8 Hawkers Stalls at CBD

MPAC to investigate this matter further

6.1.9 Disciplinary board established

The disciplinary board was established by council on 28 June 2016 (council resolution no: 6.8.10/2015/16) which was two days before year end.

6.1.10 No investigation were conducted for amounts disclosed in the AFS

Irregular expenditure amounting to R 8 594 749 was identified through the audit process in the 2014/15 financial year. The municipality did not conduct an investigation to determine the full extent of the irregular expenditure incurred in the prior year and disclose as a prior period error adjustment in the annual financial statements for the current year.

6.1.11 Expired tax clearance certificate attached to payment advice

It was noted during the audit of the procurement system that the below payment approved on 13 May 2016 was made even though tax clearance was expired on 08 December 2015.

Arabang 83 Trading &
Projects (Pty) Ltd

Supply and Delivery of Road Safety
Promotional Materials

6.1.12 The cash flow statement is not accurately presented

Management provided adjusted cash flow statement to the AG.
We recalculated the new cash flow statements and differences were still noted

7. CONCLUSIONS

MPAC having noted the failure of various role players in the municipality to resolve or ensure resolution of all the issues raised in the AG report and AC report for 2014/2015 and implement resolutions of the municipal council arising from the oversight report on AR tabled in the council in 2015 and further having fully considered the AR of the municipality tabled in January 2016 and representations made.

8. RECOMMENDATIONS

6.1 Council adopts the oversight report and refers the AR back for revisions of sections 121(3) (c) and (h) reports of the MFMA components.

6.2 Resolves that the Mayor must table the outstanding components of the AR 2015/2016 in council and provide a written explanation why they were not tabled as provided for in the MFMA by 30 May 2017.

6.3 Resolves that the AO must provide the audit recovery plan to be implemented to address the above issues raised by AG by 30 May 2017.

6.4 Resolves that the AO must also provide sufficient explanation on debt under-collection and the under-spending of conditional grants by 30 April 2017 to MPAC and 30 May 2017 to council respectively.

6.5 The AO must submit a written explanation of the above-mentioned grant under-performance, stating why steps were not taken to avoid the withholding of the grants could not have been avoided.

6.6 Resolves that the Mayor must submit performance agreements for Municipal Manager and Senior Managers to council in terms of section 53(3)(b) of the MFMA. Copies of such performance agreements for 2015/2016 and 2016/2017 must be submitted to council by the 30 May 2017.

6.7 Resolves that the AO must submit outstanding information on performance of all other service providers in the municipality by 30 May 2017 to council and by 30 April 2017 to MPAC respectively. As advised by the AC

6.8 Resolves that the AO must submit a plan to ensure that all appointed contractors complete projects as per their SLA and that contracts are monitored monthly to council by 30 May 2017.

6.9 Resolves that the AO and EXCO must submit a written explanation on why performance evaluation was not conducted and corrective actions taken to address the failure, if any to MPAC by 30 April 2017.

6.10 Council should adopt AC recommendations on both the AFS and the APR.

6.11 The AO must submit a confirmation to MPAC and Council that the municipality has fully met its statutory obligations, including the payment of taxes, audit fees and contributions to pension and medical aid funds by 30 April 2017 to MPAC and 30 May 2014 respectively.

6.12 Resolved that internal disciplinary processes be conducted on all transgressors in the fruitless and wasteful expenditure on refurbishment of municipal civic hall and progress be submitted to MPAC by 30 April 2017.

6.13 Resolved that processes to recover the fruitless and wasteful expenditure on refurbishment of municipal civic hall be instituted and progress be submitted to MPAC by 30 April 2017.

6.14 Resolved that list of members of Municipal Disciplinary Board be submitted to MPAC by 30 April 2017, and progress on the investigations conducted by the board.

6.15 Resolved that all documents related to the appointment of the contractor for installation of borehole in 13 municipal community hall be submitted to MPAC by 30 April 2017 (documents related to all contractors who bided for the project till the appointment stage)

6.16 Resolved that all documents related to the refurbishment/maintenance of Noko Tlou stadium be submitted to MPAC by 30 April 2017.

6.17 Resolved that all documents related to the appointment of all contractors contracted for construction of Municipal Civic Hall to date be submitted to MPAC by 30 April 2017.

6.18 Resolved that a report on the status of CBD hawkers stall be submitted to MPAC by 30 April 2017, this must include the scope of work, budget allocated to the project and the status quo to date.

6.19 Resolved that the MPAC Researcher appointed to give support to MPAC be dedicated to the committee and be relieved from other responsibilities.

6.20 Resolved that report of Lekoko Consultants on organisational structure and employees qualifications audit be submitted to MPAC by 30 April 2017.

6.21 Resolved that an independent forensic investigation be conducted on all unauthorised, irregular, fruitless and wasteful expenditure from 2013-2014, 2014-2015 and 2015-2016 financial years

6.22 Resolved that audit on legal fees for financial year 2015-2016 be performed and the report be submitted to MPAC by 30 April 2017

6.23 Resolved that litigation register be submitted to MPAC before 30 April 2017

6.24 Resolved that all vacant Senior Management positions and that of the Municipal Manager be filled as a matter of agency.

FOR AND ON BEHALF OF
MUNICIPAL PUBLIC ACCOUNTS COMMITTEE
MOLLO M.I MPAC CHAIRPERSON

29.03.2017
DATE

FOR AND ON BEHALF OF
MUNICIPAL COUNCIL
NTSOANE P.B COUNCIL SPEAKER

29/03/17
DATE