

MPAC

18 OCTOBER 2016

MAYORAL COMMITTEE

20 OCTOBER 2016

SPECIAL DISTRICT COUNCIL

29 NOVEMBER 2016

**MPAC /10/16**

**REPORT ON THE TERMS OF REFERENCE FOR MUNICIPAL PUBLIC  
ACCOUNTS COMMITTEE (MPAC) / *VERSLAG RAKENDE DIE TERME  
VAN VERWYSING VAN MUNISIPALE PUBLIEKE REKENINGE  
KOMITEE (MPRK) / INGXELO NGOKWEMIGAQO NEMIGQALISELO  
YEKOMITI YENCWADI ZOLUNTU ZOMASIPALA (MPAC) ( )***

(10/1/1)

20 September 2016

**REPORT FROM THE EXECUTIVE MANAGER CORPORATE/STRATEGIC  
SERVICES (B HOLTZHAUSEN)**

**PURPOSE OF THE REPORT**

To submit the Terms of Reference in respect of the Municipal Public Account Committee (MPAC) to the Committee for approval.

**BACKGROUND**

Municipal Public Accounts Committee (MPAC) is one of the Committees in terms of Section 79 of the Local Government: Municipal Structures Act 117 of 1998 to serve as an oversight committee to deal with Oversight Reports on annual reports as per Section 129 (1) of the Municipal Finance Management Act 56 of 2003.

The Committee plays an effective, financial accountability role at the local sphere of government. It enhances the accountability process by ensuring that there is objective oversight and allows for public comments in addition to other established governance committees, such as Council, Mayoral Committee and the Audit and Performance Audit Committee.

A report regarding the restructuring of Committees served before a Special Council meeting held on 30 September 2016. During the meeting it was resolved as follows:

*“That the structuring of the Section 79 and 80 Committees of Eden District Council in terms of Section 79 of the Local Government: Municipal Structures Act, 1998 Act 117 of 1998 be approved as per attached schedule. (**Annexure A**).”*

Subsequent to the above resolution, MPAC was established as follows:

- Cllr CN Lichaba as Chairperson
- Cllr AJ Rossouw
- Cllr RE Spies
- Cllr BN Van Wyk
- Cllr NS Ndayi
- Cllr D Xego
- Cllr V Gericke

The Terms of Reference for MPAC is attached as **Annexure A**.

### **FINANCIAL IMPLICATIONS**

None

### **RELEVANT LEGISLATION**

Section 41 (1)(c) of the Constitution Act 108 of 1996 provides that all spheres of government and all organs of state within each sphere must- provide effective, transparent, accountable and coherent government for the Republic as a whole.

Section 79 of the Local Government: Municipal Structures Act 117 of 1998.

Section 129 (1) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

### **UITVOERENDE OPSOMMING**

*Die Raad het tydens ‘n spesiale vergadering gehou op 30 September 2016 soos volg besluit:*

*“Dat goedkeuring verleen word dat die Artikel 79 en 80 komitees van Eden Distriksraad, ingevolge die bepalings van Artikel 79 van die Plaaslike Owerheid: Munisipale Strukturewet, 1998 Wet 117 van 98, soos per aangehegte skedule saamgestel word (**Bylae A**).”*

*Na aanleiding van bogenoemde besluit is die Munisipale Publieke Rekening Komitee gestig.*

*Die daarstelling van 'n staande komitee rakende Openbare Rekeninge as een van die komitees in terme van Artikel 79 van die Plaaslike Owerheid Strukture Wet 117 van 1998 om as toesighoudende komitee insig te verkry oor jaarverslae soos per artikel 129(1) van die Munisipale Finansiële Bestuurswet 56 van 2003.*

### **RECOMMENDATION**

That the Terms of Reference for the Municipal Public Accounts (MPAC) be accepted.

### **AANBEVELING**

*Dat die Terme van Verwysing vir Munisipale Publieke Rekeninge Komitee (MPRK) aanvaar word.*

### **ISINDULULO**

Sesokuba Imiqathango Nemigqaliselo Yencwado Zoluntu zoMasipala(MPAC) yamkelwe.

### **APPENDIX**



## **MUNICIPAL PUBLIC ACCOUNTS COMMITTEE TERMS OF REFERENCE**

### **1. INTRODUCTION:**

The Municipal Public Accounts Committee (MPAC) is established in terms of Section 79 of the Municipal Structures Act, 117 of 1998, as amended, and performs an oversight function on behalf of Council. Through the Municipal Public Accounts Committee, Council will be able to provide the public with assurance that public money and assets are being managed properly and that value for money is being rendered.

***The establishment of the Municipal Public Accounts Committee is a further link in the accountability process by ensuring objective political oversight in addition to and over other governance structures.***

### **2. APPOINTMENT OF MUNICIPAL PUBLIC ACCOUNTS COMMITTEE AND THE LEGAL FRAMEWORK:**

The following principles guide the work of Municipal Public Accounts Committee:

- 2.1 The Municipal Council must determine the functions of the Committee and approve the terms of reference for the Committee.
- 2.2 The Municipal Council must delegate specific powers to the Municipal Public Accounts Committee in terms of Section 59 of the Municipal Systems Act. ***These delegations must be included in the Delegations Register. The review of any delegations to the Municipal Public Accounts Committee will remain the responsibility of Council.***

- 2.3 The Municipal Council may determine the procedure of the Committee or allow it to determine its own procedure.
- 2.4 The Municipal Council appoints the members of the Municipal Public Accounts Committee from amongst the Non-Executive Councillors.
- 2.5 The Municipal Council appoints the Chairperson of the MPAC.
- 2.6 The Municipal Council may dissolve the MPAC at any time by way of a Council resolution.
- 2.7 The Municipal Council may remove any member of the Committee at any time by way of a Council resolution
- 2.8 The Municipal Council may allow the MPAC to co-opt advisory members who are not members of the Council, within the limits determined by the Council.
- 2.9 The meetings of the MPAC should, as far as is possible and practical, be open to the public in accordance with Section 160 (7) of the Constitution.
- 2.10 The Municipal administration must ensure that adequate financial and human resources are made available to support the functions of the MPAC.
- 2.11 Meetings of the MPAC should be provided for and included in the annual calendar of the Council.
- 2.12 The MPAC reports directly to the Municipal Council and the Chairperson of the MPAC liaises directly with the Speaker on the inclusion of reports of the MPAC in the Council agenda.

### **3. FUNCTIONING OF MPAC:**

- 3.1 *The Committee must always conduct itself in a non-party political manner.*
- 3.2 Meetings of the Committee should be open to the public, in terms of Section 160 (7) of the Constitution, unless it is unreasonable to do so. The Committee has the authority to determine if a matter should be closed to the public, after discussion amongst members. The media should also have access to the MPAC meetings.
- 3.3 The Auditor-General and Internal Audit or his/her representatives have free access to all meetings (whether dealing with open or closed matters). It is not an imperative that these entities attend every meeting of the MPAC. However, they must be invited to all the MPAC activities and meetings.

- 3.4 The appointment of the Chairperson must be in terms of a Council resolution. The Chairperson may not be an office bearer/Executive Councillor in the Municipality. The Chairperson must be an experienced Councillor who has the necessary skills and expertise to Chair this critical Committee. ***The Chairperson shall be from the opposition party.*** If the Chairperson is absent from a meeting, the members present must elect a member from the meeting to Chair that particular meeting.
- 3.5 Members' term of office runs concurrently with the term of the Council.
- 3.6 ***MPAC shall consist of five (7) Councillors with knowledge of financial and governance matters.***
- 3.7 Should vacancies occur, Council will fill the position in the next Council meeting.
- 3.8 The Committee is **not** prevented from undertaking its activities while awaiting the appointment of a new member.
- 3.9 The quorum for all meetings shall be 50% plus one member.
- 3.10 The Committee may co-opt a maximum of two additional members who have the pre-requisite skills as it deems necessary. It is proposed that the Chairperson of the Audit Committee is one such additional member. The names of the additional / co-opted members shall be reported in the Annual Report of Council.

#### **Administrative support**

- 3.11 The Municipal administration, through the Municipal Manager, must ensure adequate financial and human resources are made available to support the Committee. All requests for assistance must only be via the Office of the Municipal Manager or his/her duly delegated official. Any requests for documentation and information must also be made in writing to the Office of the Municipal Manager.
- 3.12 Formal agendas and minutes of the meetings must be prepared by a staff member, identified by the Municipal Manager, under guidance of the Chairperson.
- 3.13 Notice of special meetings of MPAC shall be given at least 14 days prior to the meeting. Agendas and relevant documents shall be received at least 7 days prior to meeting for preparation purposes.

3.14 The Committee must meet at least four times per annum. These dates are to be identified at the start of each calendar year and co-ordinated with Council's schedule of meetings. The work of the MPAC Committee must be programmed to link with the overall planning cycle of the Council. The MPAC Committee must ensure that all legislative deadlines which relates to its role, are adhered to.

3.15 *The effectiveness of the MPAC Committee must be evaluated by the MPAC Committee at its last meeting in each calendar year. A report in this respect must be tabled to Council, whereupon Council must evaluate the MPAC Committee.*

### **Reporting**

3.16 The MPAC will report to Council after each of its pre-determined meetings. The MPAC will provide Council with a programme of its planned activities as well as a report of activities for the calendar year. These reports will include details of meetings, the proposed work programme and any key resolutions required or taken.

3.17 The MPAC Committee may bring items to full Council, via the Office of the Speaker.

3.18 The full Council must deliberate on any recommendations from the MPAC Committee at an open public meeting, unless the MPAC Committee specifically the calendar year. These reports will include details of meetings, the proposed work programme and any key resolutions required or taken.

3.19 Council must reach finality on matters in the shortest time possible in order to ensure expedient work.

### **Attendance of meetings**

3.20 Members are to observe the Rules of Order as determined for Council.

3.21 Members are to refrain from lengthy debates at public hearings as the intention is to obtain information from other parties.

3.22 The MPAC Committee members shall be removed if they are absent from three meetings in a row – with or without an apology – unless Council deems otherwise.

3.23 The Chairperson of the MPAC Committee, through the Municipal Manager, may request the attendance of the applicable Director(s) as and when needed, depending on the content and detail of the agenda.

- 3.24 The MPAC Committee may also invite any persons, ***including political office-bearers*** with relevant experience, both internally and externally, to attend or give evidence. ***The Office of the Municipal Manager must be notified of any requests to staff members in order to make the necessary internal arrangements.***
- 3.25 The Manager: Administration will provide secretarial and logistical support to the MPAC Committee. The Auditor-General, The Audit Committee and Internal Audit will provide the MPAC Committee with technical support.
- 3.26 The Chairperson of the Finance Portfolio Committee shall be invited to be in attendance at all MPAC Committee Meetings.

### **Authority and role of MPAC**

- 3.27 In order to fulfil its role, the MPAC Committee shall have access to the following documents, as they become available:
- Section 71 reports;(monthly budget statements)
  - Section 72 reports;(Mid-year Budget and performance assessment)
  - Financial statements of the Municipality;
  - The final audit opinion and documents from the Audit Committee related thereto;
  - Any information in terms of Section 128 and Section 133 of the MFMA; and
  - Quarterly Report of the Executive Mayor in term of Section 52(d) of the MFMA (Implementation of the Budget and the Financial state of affairs of municipality)
  - The Annual Report (section 127)
- 3.28 Any documents or information to which the MPAC is entitled and which it has requested must be provided without delay.
- 3.29 The functions of the MPAC are:
- (a) To consider and evaluate the Annual Report as tabled to Council, and thereafter make recommendations to Council in this regard. The Committee must receive the report no more than two weeks after tabling to Council.
  - (b) To compile an Oversight Report and table in Council no later than two months from the date of which the Annual Report was tabled, in terms of Section 129 of the MFMA.



- (c) To monitor that all submissions and calls for comment have been undertaken as per Section 127(5), 130 and 132 of the MFMA.
- (d) To review whether matters raised in past Annual Reports have been attended to, as well as whether recommendations made in previous Oversight Reports in terms of Section 129 of the MFMA have been attended to.
- (e) Any unforeseen and unavoidable expenditure, in terms of Section 29 of the MFMA, must be reported to the MPAC with proof of the necessary appropriation in the adjustment budget. After consideration of the matter, the MPAC must report to Council on the matter.
- (f) Any unauthorised, irregular or fruitless expenditure, in terms of Section 32 of the MFMA, incurred by the Council, Executive Mayor, political office bearers or officials, must be reported to the MPAC. The Accounting Officer must report to the MPAC on all steps taken to authorise or certify or recover or write off the expenditure, as well as whether any criminal action was instituted. The MPAC must report to Council on the appropriateness of action taken.
- (g) To report to Council if an annual budget has not been compiled and submitted to Council in terms of Section 16 of the MFMA.
- (h) To monitor whether the Executive Mayor has initiated a review of the IDP post elections and annually thereafter. If such review is not done, the MPAC must report to Council.
- (i) To consider and comment on the following:
- Section 72 reports (Mid-year Budget and performance assessment);
  - The final audit opinion and documents from the Audit Committee related thereto;
  - Any information in terms of Section 128 and Section 133 of the MFMA; and
  - Quarterly Report of the Executive Mayor in term of Section 52(d) of the MFMA (Implementation of the Budget and the Financial state of affairs of municipality)
  - The Annual Report (section 127)
- (j) To recommend an investigation in its area of responsibility, after reviewing any investigation report already undertaken by the municipality or the Audit Committee;

(k) In the case of any irregular expenditure or any fruitless and wasteful expenditure incurred by the municipality or municipal entities, the MPAC ***will have the right to call upon the Executive Mayor, Accounting Officer of the municipality or municipal entity's and the Chairperson of the Municipal entity's Board of Directors to appear before it to provide information or clarity.***

(l) The MPAC may, for the purposes of Section 130 of the MFMA, engage directly with the public and consider public comments.

***(m) To perform any other functions assigned to it through a resolution of council within its area of responsibility***