

DISTRICT COUNCIL

14 DECEMBER 2022

1. **OVERSIGHT REPORT ON THE ANNUAL REPORT FOR THE 2021/22 FINANCIAL YEAR
/ *VERSLAG RAKENDE DIE OORSIGVERSLAG VIR DIE 2021/22 FINANSIËLE JAAR*
INGXELO BANZI NGENGXEKO YONYAKA YONYAKAMALI KA 2021/22**

**AUTHOR OF REPORT: CHAIRPERSON OF MUNICIPAL PUBLIC ACCOUNTS
COMMITTEE (MPAC) (CLLR D ACKER)**

2 PURPOSE

To present the Oversight Report on the Annual Report of the Garden Route District Municipality (GRDM), as required by legislation, and submit the recommendation to Council for consideration.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The 2021/22 Annual Report was presented to the Committee on 30 August 2022 and 02 December 2022. The report was advertised for public inputs and comments on 30 August 2022 and no comments were received from the public/communities. The Draft Annual Report was also submitted to Provincial Treasury and Provincial Department of Local Government as well as the Office of the Auditor General.

Further to the above platforms, the Annual Report was also placed on our communications channels, including website and Official GRDM Facebook Page.

MPAC would like to take this opportunity to congratulate the administration for maintaining the Audit Outcomes of Clean Audit, which we will further deal with later in this report.

5. RECOMMENDATIONS

1. That Council, after having fully considered the Annual Report of the municipality and representations thereon, adopts the oversight report and the 2021/22 Annual Report without reservations.
2. That the Accounting Officer, in accordance with Section 21 (a) of the Municipal Systems Act, make the oversight report public within seven days of its adoption.
3. That the Accounting Officer submits the Oversight Report to the Provincial Legislature within seven days.
4. That the Accounting Officer develops action plans to address issues raised in the Auditor General Report and monitor progress.
5. That the Audit Action Plan progress be presented to APAC and MPAC quarterly.
6. That Council refer Irregular Expenditure to MPAC for investigation for the current year (R16 401 746) and prior year (R 3 350 032).
7. That council writes off Irregular Expenditure of R 7 566 985.48

AANBEVELINGS

1. *Dat die Raad, na voldoende oorweging van die jaarverslag van die munisipaliteit en voorleggings hieroor, die Oorsigverslag aanvaar en die 2020/21 Jaarverslag goedkeur sonder voorbehoud.*
2. *Dat die rekenpligtige beampte, in gevolge die bepalings van artikel 21(a) van die Munisipale Stelselwet, die Oorsigverslag publiseer binne sewe dae na aanvaarding daarvan.*
3. *Dat die rekenpligtige beampte van die munisipaliteit die Oorsigverslag binne sewe dae aan die Provinsiale Wetgewer voorsien.*
4. *Dat die Rekenpligtige Beampte aksie-planne moet ontwerp om die aangeleenthede wat deur die Ouditeur-Generaal se verslag uitgewys is, te monitor.*
5. *Dat vordering met die Oudit Aksieplan kwartaaliks aan OPOK en MPKR voorgele word.*
6. *Dat die Raad die onreëlmatige uitgawes na MPRK vir ondersoek verwys vir die huidige jaar (R16 401 746) en die vorige jaar (R 3 350 032).*
7. *Dat die Raad die onreëlmatige uitgawes van R 7 566 985.48 afskryf.*

IZINDULULO

1. Sesokuba iBhunga, emveni kokuqwalasela ngokupheleleyo iNgxelo Yonyaka yomasipala kunye nokunikezelwa kwayo, iyamkele ingxelo banzi kunye neNgxelo Yonyaka ka 2020/21 ngaphandle kokuxhomekeka.
2. Sesokuba iGosa Elinioxanduva, ngokuthobela uMhlathi 21(a) Womthetho Welawulo Lomasipala, ayazise eluntwini ingxelo banzi kwisithuba sentsuku ezisixhenxe yamkelwe.

3. Sesokuba iGosa Elinoxanduva linkezele Ingxelo Banzi Kwiqumrhu LowisoMthetho lePhondo kwisithuba sentsuku ezisixhenxe.
4. Sesokuba iGosa Elinoxanduva livelise isicwangciso sothabatho manyathelo ukujingana nemiba ethe yaphawulwa kwiNgxelo Yomphicothi Jikelele kwaye liqwalasele lomsebenzi.
5. Sesokuba umsebenzi osele wenziwe Wesicwangciso Samanyathelo eZophicotho unikezelwe rhoqo ngekota kwi APAC nakwi MPAC.
6. Sesokuba iBhunga ligqithisele Incitho Enxamnye Nomthetho kwi MPAC kulonyaka (R16 401 746) nakunye nonyaka ogqithileyo (R 3 350 032)ukuze iphandwe.
7. Sesokuba iBhunga licime imali esetyenziswe ngendlela engeyiyo
Eyi R7 566 985.48.

6. DISCUSSION / CONTENTS

6.1 Background

In terms of section 129 of the Local Government: Municipal Finance Management Act, 2003, Council must adopt an oversight report of the municipality, which must include comments on the Annual Report. The Municipal Public Accounts Committee (MPAC) is the committee of Council that is tasked with that responsibility of drafting such a report.

Council has adopted an Annual Report Process Plan that is in line with MFMA Circular 63, which requires that the whole process of the Annual Report be finalised in December each year. GRDM is the only municipality that follows MFMA Circular 63 in the region, if not the whole Western Cape. Indeed, we are aspired to be the leading District in South Africa.

The Draft Annual Report for the 2021/22 financial year was tabled in Council on 24 August 2022 and to MPAC and Audit and Performance Audit Committee (APAC) on 30 August 2022. The Annual Report was also made public on 30 August 2022, to invite public comments on the report.

The MFMA requires in section 127 states that:

" The council in terms of section 129, 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.

It further states in section 130 that:

"(1) The meetings of a municipal council at which an Annual Report is to be discussed or at which decisions concerning an Annual Report are to be taken, must be open to the public and any organs of state, and a reasonable time must be allowed—

- a) for the discussion of any written submissions received from the local community or organs of state on the Annual Report; and
- b) for members of the local community or any organs of state to address the council.

- (2) Representatives of the Auditor-General are entitled to attend, and to speak at, any council meeting referred to in subsection (1).
- (3) The accounting officer must in accordance with section 21A of the Municipal Systems Act make public an oversight report within seven days of its adoption.

Purpose of an Annual Report

The purpose of the Annual Report is:

- to provide a record of the activities of the municipality;
- to provide a report on performance against
- to promote accountability to the local community for decisions made.

The Annual Report of a municipality must include—

- (a) the annual financial statements of the municipality as submitted to the Auditor-General for audit;
- (b) the audit report of the Auditor-General in terms of both section 126(3) of the MFMA and section 45(b) of the Local Government: Municipal Systems Act, 2000 (MSA);
- (c) municipality's annual performance report as per section 46 of the MSA;
- (d) assessment of any arrears on municipal taxes and service charges;
- (e) assessment of municipality's performance against measurable performance objectives for revenue collection from each revenue source and for each vote in the municipality's approved budget;
- (f) particulars of corrective action taken or to be taken on issues raised in audit reports;
- (g) explanations to clarify issues on financial statements;
- (h) any other information determined by the municipality including recommendations made by APAC and any other information as may be prescribed.

Municipal Public Accounts Committee (MPAC)

MPAC is responsible, amongst other functions:

- (a) To consider and evaluate the Annual Report as tabled in Council, and thereafter make recommendations to Council in this regard.
- (b) To compile an Oversight Report and table in Council and make recommendation for Council's consideration.

MPAC Meeting Attendance

For purposes of complying with the requirements listed above, MPAC met on the following dates to consider and discuss the content of the Annual Report.

MPAC Member	Affiliation	29 Aug 2022	02 Dec 2022	06 Dec 2022
Ald CN Lichaba	ANC	Present	Present	Present
Cllr C Swart	DA	Present	Present	Present
Cllr K Malooi	DA	Present	Present	Present
Cllr JG Meiring	DA	Present	Present	Present
Cllr M Kannemeyer	DA	Present	Present	Present
Cllr CP Taute	ANC	Present	Present	Present
Cllr RJ Hector	GOOD	Present	Apology	Apology
Cllr D Acker	FF Plus	Present	Present	Present
Cllr JP Buys	PBI	Not a Member	Present	Present
Cllr D Cronje	DA	Present	Apology	Present

In addition to the above meetings, MPAC also met on the following dates:

- 07 July 2021
- 30 August 2021
- 31 August 2021
- 06 December 2021
- 17 March 2022

- 30 May 2022
- 31 October 2022

6.2 Discussion

The committee met three times to discuss the draft and final Annual Report and for compilation and approval of this report. The 2021/22 Annual Report was advertised for public inputs and comments from the 30 August 2022. No comments were received from the public/communities. The Draft Annual Report was also submitted to Provincial Treasury and Provincial Department of Local Government as well as the Office of the Auditor General. Further to the above platforms, the Annual Report was also placed on our communications channels, including website and Official GRDM Facebook Page

As part of the review of the Annual Report, the committee has also reviewed the report that was received from Provincial Treasury on GRDM's annual report. This report confirmed that GRDM's annual report has been compiled in compliance with all relevant legislation, including MFMA Circular 63. Provincial Treasury further commended the Municipality in its exceptional innovations of the past few years.

Provincial Treasury raised four issues that the Municipality should address before making the report final. These are:

1. That the foreword of the Municipal Manager should also include information on internal management changes in relation to Section 56/57 managers, and information related to the revenue trend by source including borrowings undertaken by the Municipality.
2. The Municipality did not disclose information on "B-BBEE COMPLIANCE PERFORMANCE INFORMATION" in the annual report.

3. That the annual report should contain a heading titled "B-BBEE Compliance Performance Information" complete with sub-headings disclosing information relating to the following elements: Management Control, Skills Development, Enterprise, and Supplier Development; Socio Economic Development
4. The naming convention of the strategic objectives in the 2021/22 Annual Report are aligned with the IDP but not the SDBIP.

The Municipal Manager's foreword has been amended to include the above. The above issues have been catered for in the final report and the issue of BBEE will form part be addressed in future reports. The Strategic objective "Financial viability" and "Financial Sustainability" was used interchangeably in the IDP, but in the Annual Report and in the SDBIP, Financial Viability was used. Going forward only Financial Viability will be used in all three documents.

The final Annual Report, with all its components, was discussed on 02 December 2022. We would like to commend the administration for being able to compile the final set of the Annual Report with all the chapters and Annexures that are required in terms of section 127 of MFMA. The final report from the Office of the Auditor General was received on Wednesday, 30 November 2022. The MPAC members were informed that the Special Council Meeting to deal with the oversight report was scheduled to take place on 14 December 2022. This meant that the administration and MPAC had to work under very tremendous pressure to ensure that the whole process is completed by before that meeting and to allow for the inclusion of this report in the Council agenda.

AGSA AUDIT REPORT

The Office of the Auditor General presented their report to the Committee on 02 December 2022. The committee would like, again, to congratulate Management and Political leadership for maintaining a Clean Audit.

The report of the Auditor General did not raise any material findings on the Municipality. However, there are three issues that the auditor would like to bring to the attention of the Council.

These issues are:

1. Material impairments – receivables from exchange transactions

As disclosed in note 8 to the financial statements, receivables from exchange transactions were significantly impaired. The impairment allowance was R39 715 379 versus the R34 239 057 for 2021 financial year.

90% of this impairment relates to Fire Services Accounts which are not collectable. This has been the case for quite a number of years.

2. Contingent liabilities

This relates to properties in Knysna, where the two Municipalities are in dispute on ownership. There has been discussion between the two Municipalities to address the matter. These properties are currently registered under the name of Garden Route District Municipality and the municipalities is of the view that they are the rightful owners. However, due to Knysna Municipality disclosing these properties as contingent assets, they had to be disclosed as contingent liabilities.

3. Underspending of the expenditure budget

Roads department underspent R69m:

Additional allocation via signed addendum from the WC Department of Transport and Public Works was included via an adjustment budget after signing of the addendum (as per MBRR).

It was later communicated by the Department that the allocation was in relation to March 2021 expenditure that they had processed late and therefore needed to add the amount to their 2021/22 financial year (Apr 2021 - March 2022). This expenditure was already accounted for in GRDM's 2020/21 annual financial statements - hence the actual being lower than the budget.

The additional variance is due to Roads actual expenditure for April - March 2022 being lower than expected as per the budget. There is no loss to Council as expenditure (and related revenue) will be incurred in the 2022/23 financial year.

Unspent Grants:

The unspent grant portion relates to Human Settlements unit as explained in the annexure below.

Given the Financial Status of this Municipality, Management is encouraged to find ways to decrease the debtor's impairment provision and ensure that there are effective controls in place and also ensure that debt owed to the municipality is recovered. The accounts should be handed over for legal steps in line with Council policy.

The municipality is heavily dependent on equitable share allocation and neglecting to collect the little that it can receive from its debtors might be disastrous in the long run. Much of the

amount that is impaired relates to fire accounts. The total value of the Fire Debt is R 36 898 064 of which R 36 180 498 is more than 90 days overdue. This constitutes 98% of the fire accounts. This is concerning as these are the accounts that are likely to form, the most part, of these bad debts.

This impairment is always part of this oversight report and it seems that these fire accounts are not always collectable. Management is urged again to look at possible collection methods for fire accounts.

In terms of property disputes with Knysna Municipality, the action proposed by the Municipality in its action plan was noted. Management and Council urged to prioritise the discussion between the two municipalities to speedily address the issue of ownership of this property.

The committee took note that above three matters were included in the Audit Action Plan that was submitted by Management to this Committee, on 02 December 2022.

General Matters

Financial Viability

The Municipality is assessed as a going concern. The going concern concept is a fundamental principle of accounting. It assumes that during and beyond the next fiscal period an institution will complete its current plans, use its existing assets, and continue to meet its financial obligations.

Having said that, the committee is concerned that in the long run, the Municipality might find itself not financially viable.

This is due to a number of factors, and some are not within the Municipality's control, and some need the Municipality to have plans in place.

The issue of the District Municipality's funding model has been raised in previous oversight reports and seem to be an issue that will take some time to be addressed. The funding model that is used to fund District Municipalities is not sustainable. The equitable share, which is the main funding source of the districts, is increasing by less than R2m each year, whereas the municipality's operational expenditure increases by more than 3%. The greater component of this operational expenditure is Salary Cost which are increased through bargaining council agreements. The current salary expenditure is about 65% of the Municipality's total expenditure.

Even though the districts are labour intensive as compared to the B Municipalities, a 65% salary bill is considered very high. The compliance to the recently published Municipal Staff Regulation will also not assist the situation, as the Districts might be required to employ more people at specialist and management level. This is due to the nature of the services that are performed by the District as well as the expectations to provide technical assistance to B Municipalities.

At the Local Government Summit held in October 2022, this matter was discussed and the President of the Republic of South Africa, instructed SALGA to convene a working group with all applicable stakeholders to address this ever-growing concern that municipalities in South Africa are dealing with.

The Municipality should continue to find ways of exploring alternative revenue sources as an alternative to possible staff retrenchment.

The Municipality should continue to leverage on its asset base, especially properties, to ensure that they generate the required revenue. The progress on the Regional Landfill site and the leasing of Kleinkrans Property is noted.

The other projects that should be prioritised are:

- Municipal Resorts
- Alternative Energy Initiatives
- Fresh produce Market
- Student Accommodation

Council should closely monitor these projects, to ensure that they succeed. A turn-around approach for the resorts that are making losses should be developed and implemented.

Unauthorised Expenditure

The municipality incurred no unauthorised expenditure in the year under review. We can only commend the administration in this regard and encourage that this be a continuous trend.

Irregular expenditure

The table below provide a summary of the irregular expenditure incurred for by the Municipality:

Reconciliation of irregular expenditure		
Financial Year	2022	2021
Opening balance	32 721 262	63 969 981
Irregular expenditure current year	16 401 746	22 261 649
Irregular expenditure - prior year	3 350 032	107 208
Irregular expenditure recovered	(6 000)	-
Irregular expenditure written-off as irrecoverable supported by council i.t.o section 32 of MFMA	(25 046 808)	(53 617 575)
Irregular expenditure awaiting further action	27 420 232	32 721 262

When the committee reviewed the Audited Annual Financial Statement, it noted an Irregular expenditure incurred during the year under review to the value of R16.4m. This is a reduction when compared to R22.2m recorded in the prior year. The R 12 005 410 of the R 16 401 746 relates to contracts that were entered into in previous financial years. This relates to non-compliance with SCM regulation 29(c), the composition of the BAC. This expenditure relates to contracts that were declared irregular two years ago and therefore is not new discovery of irregular expenditure. This has been reported extensively on in the past. For the 2018/19 statutory audit, the Office of the Auditor General's technical department issued a clarification regarding the interpretation and application of SCM Reg 29(2) regarding the composition of the bid adjudication committee (BAC). Membership to the committee requires, amongst others, the CFO, as well as a Senior SCM Practitioner. In the past, due to capacity constraints, the CFO was regarded to also fulfil the requirement of the Senior SCM Practitioner.

However, the clarification stated that these must be two different officials. The Office of the Auditor General therefore concluded that the BAC was not constituted as per reg 29(2), and this non-compliance results in all formal tenders to be considered to be irregular expenditure. It should be noted that this non-compliance did not result in any loss to Council as the award would not have been granted to The Manager: SCM did attend the BAC meetings in an advisory capacity, therefore the inputs from the "Senior SCM Practitioner" was given at the BAC meeting. The irregular expenditure is purely based on the fact that the Manager: SCM should have been a member of the BAC, not only an advisor. However, this will be referred to Internal Audit for formal investigation and a report will then serve to this committee. The remainder of the R16.4 million relates non-compliance to the Preferential Procurement Policy Framework Act.

In the meeting of the MPAC dated 31 October 2022, the committee also recommended that an amount of R 7 566 985.48, that relates the 2011 financial year be recommended to council for write off.

As part of the open balance of the Irregular Expenditure of R 32 721 262 (refer to the table above), there is an amount of R 7 566 985.48 that was never processed by council. This relates to 2011/12 financial year. This was as a result of a forensic investigation that was conducted then. The investigation revealed that there were inconsistent in the application of the Supply Chain Management Policy. The investigation was conducted by KPMG and concluded on 23 January 2012.

MPAC initially referred this matter to Internal Audit for further investigation and recommendations. It was ascertained that there is no evidence of embezzlement indicated; however, all these cases were due to non-compliance with the Supply Chain Management Policy and in disregard of the systems of delegation. Most of the employees mentioned in the report are no longer in the employ of the municipality, particularly those who occupied strategic positions.

The nature of the transgressions range amongst others from the following:

- Approving and/or acquisition of goods and services without proper delegation of powers.
- Memorandums of Agreements entered into between the municipality and service providers without following the Supply Chain Management process.
- Procurements of goods and services through deviation processes without adequate motivation to do so.
- Procurement of goods and services without obtaining three quotations as stipulated in the Supply Chain Management policy.
- Splitting of expenditure by means of avoiding the tender processes.
- Payments made to service providers in excess of the agreed amounts in the Service Level Agreement.
- Payment of services not yet rendered.

The investigations revealed that there was clear evidence of negligence and deliberate contravention of the applicable laws and regulations. Disciplinary actions were instituted against the wrongdoers. Some of the disciplinary sanctions resulted in dismissals and other officials opted to resign from the employ of the municipality. However, the only process that was not followed as yet is to take this through the process of write off or recovery by council.

It is to be noted that this expenditure is quite aged, approximately 10 years. Internal Audit recommended that this be written off as irrecoverable. The Committee at meeting dated 21 October 2022 decided to recommend to council that this amount be written off.

Fruitless and wasteful expenditure

The following table depicts the Fruitless and Wasteful Expenditure for the year under review.

Reconciliation of fruitless and wasteful expenditure:		
Financial Year	2022	2021
Opening balance	-	887
Interest: Creditors	-	-
Fruitless and wasteful expenditure prior year	399 800	-
Recovered, condoned or written off by Council	(399 800)	(887)
Fruitless and wasteful expenditure awaiting condonement	-	-
Balance	-	-

The fruitless and wasteful expenditure relates payment for services that were not fully received. This matter was dealt with by the Disciplinary Board and the full payment was recovered. The minutes of the Disciplinary Board also served at MPAC. No further action is recommended here.

Audit Action Plan

We noted that Management has already prepared an action plan to address the issues raised by the Auditor General in their report. This action plan was presented to the committee on 02 December 2022. We commended management for speedy response in developing action plan to address issues raised by AG. During their presentation, the Office of the Auditor General also confirmed that the fact that management take findings issued by AG seriously, is one of the reasons of sustaining the clean audit.

The progress on this action plan should be closely monitored and reported to MPAC and APAC.

Performance Information

There were no findings raised on performance information. The Municipality achieved 85% of its planned targets. This is a commendable achievement. The assessment done by Provincial Government of Performance Information also showed no material concerns and commended the municipality in this regard.

In conclusion, the Chairperson of MPAC wishes to thank MPAC members, Management and Council for their support and ensuring that the work of this committee is not hindered and can be transparently addressed. The Council, Chairpersons of different Section 80 & 79 Committees, the Audit Committee members, Management, all officials and fellow MPAC Members are congratulated again on achieving the Clean Audit. This remains a significant achievement.

6.3 Financial Implications

None

6.4 Legal Implications

No Compliance to MFMA Circular 63

6.5 Staff Implications

None

6.6 Previous / Relevant Council Resolutions:

There are no previous or relevant Council resolutions related to this matter.

6.7 Risk Implications

Failure to	to no	adopt or compliance	not	adopt	may	result
---------------	----------	---------------------------	-----	-------	-----	--------

