

THE OVERSIGHT COMMITTEE MEETING ON 6 SEPTEMBER 2023

OVERSIGHT REPORT ON THE ANNUAL REPORT OF DR BEYERS NAUDE LOCAL MUNICIPALITY FOR THE 2021/22 FINANCIAL YEAR 9/2/2

PURPOSE

The purpose of the report is to inform Council about the work done by the Oversight Committee in analysing the Annual Report and to make recommendations to Council as required in terms of Section 129 (1) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).

BACKGROUND

An Oversight Report and Final Annual Report for 2021/22 were presented to Council during a Special Council Meeting held on 7 June 2023. Council, during this meeting, adopted the Final Annual Report but rejected the Oversight Report 2021/22 due to numerous shortcomings and crucial aspects not reflecting in the said report. An amended Oversight Report 2021/22 is hereby submitted to Council to consider.

The Final Annual Report content will assist municipal councillors, municipalities, municipal entities, residents, oversight institutions and other users of Annual Reports to assess progress made on service delivery. It must align with the Integrated Development Plan (IDP), Budget, Service Delivery and Budget Implementation Plan (SDBIP) and in year reports. The contents will also assist with the annual audits.

This report should be used as a decision-making tool by the municipalities.

Every municipality and municipal entity must prepare an annual performance report which must form part of the Annual Report for each financial year in accordance with the Municipal Systems Act 2000 (MSA) section 46, and the Municipal Finance Management Act 2003 (MFMA) section 121.

The purpose of the Annual Report is:

- * To provide a record of the activities of the municipality or entity during the financial year to which the report relates;
- * To provide a report on performance in service delivery and budget implementation for the financial year;
- * To promote accountability to the local community for the decisions made throughout the year by the municipality or municipal entity; and
- * To reduce the additional reporting requirements that will otherwise arise from Government Departments, monitoring agencies and financial institutions.

The 2021/22 draft Annual Report was tabled during a Special Council Meeting held on 25 January 2023 and thereafter published for public comment by the Municipal Manager, in accordance with Section 21(A) of the Local Government: Municipal Systems Act. The closing date for public comment/input was 09 March 2023.

OVERSIGHT COMMITTEE

Council, for purposes of exercising oversight over the executive obligations of Council, has also established the Municipal Public Accounts Committee at an Ordinary Council meeting held on 21 July 2022. The MPAC members appointed, following the 2021 Local Government Elections, are:

- ***Councillor Tracy-Lee Plaatjies – Chairperson of Municipal Public Accounts Committee (Replaced Cllr X Galada as Chairperson)***
- ***Cllr. Sakkie van Zyl***
- ***Cllr. Jaquin Bolligelo***
- ***Cllr. Xolile Galada***

Council further tasked the Municipal Public Accounts Committee to analyse and review the draft Annual Report and produce an Oversight Report to Council for consideration.

SEPARATION OF ROLES

The separation of roles between the council and administration is intended to strengthen the oversight function of councillors. Good governance and effective oversight and accountability are predicated on there being this separation of functions. It is fundamental for the achievement of the objects for local government in the Constitution relating to a democratic and accountable system of local government. Council oversees the performance of the administration through council and committee meetings. The mayor provides the link between the council and administration and is responsible for regular monitoring and for tabling reports before the council. Therefore, the administration is responsible for the day-to-day operations. This separation avoids conflict of interest and a “referee/player” situation arising and is similar to the role played by Parliament.

The MFMA further assumes a separation between councillors serving on the executive (i.e. mayor or executive committee) and non-executive councillors. This separation is vital to ensure council maintains oversight for the performance of specific responsibilities and delegated powers to the mayor or executive committee.

The MFMA gives council a number of financial management tasks to fulfil its oversight role. The adoption of an “Oversight Report” is one such task. The diagram on the following page illustrates the various oversight intervention points from the adoption of the Integrated Development plan (IDP), Budget, Annual Report and Oversight Report.

CONTENT

Council is vested with the responsibility to oversee the performance of their respective municipality, as required by the Constitution, the Municipal Finance Management Act (MFMA) and Municipal Systems Act (MSA). This oversight responsibility of council is particularly important for the process of considering annual reports.

The MFMA and MSA recognise that council has a critical role to play to ensure better performance by municipal departments and entities. There now exists an explicit linkage between the strategic goals, set by council through the IDP, which are translated into the budget, and the delivery of those goals, which is reported in the Annual Report. It is important for council to ensure that the budget gives effect or expression to priorities contained in the IDP. A good budget will lay a basis for better oversight and cement the contracts between the executive/council, the administration and the public.

The MFMA gives effect to financial management reforms that place greater service delivery responsibilities on managers and makes them more accountable for performance. Whilst, in the first instance it is left to the mayor or the Executive Committee to resolve any performance failures, council is ultimately vested with the power and responsibility to oversee both the executive and administration. Oversight occurs at various levels in a municipality and is explained in the following table:

FINANCIAL GOVERNANCE FRAMEWORK APPLICABLE TO LOCAL GOVERNMENT

	Responsible for	Oversight over	Accountable to
Council	Approving policy and budget	Mayor or Committee	Community
Mayor or Committee	Policy, budgets, outcomes, management of/oversight over municipal manager	Municipal Manager	Council
Municipal Manager	Outputs and implementation	The Administration	Mayor or Committee
Chief Financial Officer and Senior Managers	Outputs and implementation	Financial Management and Operational Functions	Municipal Manager

The annual report:

- is meant to be a backward-looking document, focusing on performance in the financial year that has just ended; and
- must demonstrate how the budget was implemented and the results of service delivery operations for that financial year.

When tabled, the annual report should include the following main components, each of which has an important function in promoting governance and accountability. The main components are:

The annual performance report as required by section 46 of the MSA:

- Annual Financial Statements submitted to the Auditor-General;
- The Auditor-General’s audit report on the financial statements in terms of section 126(3) of the MFMA; and
- The Auditor-General’s audit report on performance in terms of section 45(b) of the MSA.

Other components required to be included in the annual report are set out in the section 121 of the MFMA and MFMA Circular No 11 issued by National Treasury on 14 January 2005.

The oversight report is the final major step in the annual reporting process of a municipality. Section 129 of the MFMA requires the council to consider the annual report of its municipality and municipal entities and to adopt an “oversight report” containing the council’s comments on each annual report.

The oversight report must include a statement whether the council:

- has approved the annual report, with or without reservations;
- has rejected the annual report; or

has referred the annual report back for revision of those components that can be revised.

The oversight report is thus clearly distinguished from the annual report. The annual report is submitted to the council by the accounting officer and the mayor and is part of the process for discharging accountability by the executive and administration for their performance in achieving the goals set by council.

The oversight report is a report of the municipal council and follows consideration and consultation on the annual report by the council itself.

Thus the full accountability cycle is completed and the separation of powers is preserved to promote effective governance and accountability.

PROCESS OF ASSESSMENT OF THE ANNUAL REPORTS

The draft Annual Report for 2021/22 was tabled at a Special Council meeting held on 25 January 2023, during which Council resolved as follows:

- a) That Council approve the draft 2021/22 Annual Report, of Dr. Beyers Naudè Local Municipality, and that all Councillors and Officials be requested to submit their comments/inputs/corrections to the Office of the Municipal Manager;
- b) That the Annual Report in (a) above be advertised for public comment and input and the Municipal Public Accounts Committee (MPAC) be delegated the responsibility to engage with the draft 2021/22 Annual Report on behalf of Council;
- c) That copies of the draft 2021/22 Annual Report in (a) above be sent to the Audit Committee, Internal Audit, Treasury, Department of Co-operative Governance and Traditional Affairs and the Auditor-General;
- d) That the reviews of the Oversight bodies, when available, be captured in the draft 2021/22 Annual Report and Management be tasked to take the necessary corrective measures accordingly;
- e) That the Municipal Public Accounts Committee (MPAC), be appointed by Council to interact with the draft 2021/22 Annual Report in (a) above before final approval by Council.

ADVERTISING PROCESS

Following the above mentioned resolution, the draft Annual Report for 2021/22 was made public in terms of section 127(2) of the MFMA and the local community was invited to submit representations/inputs/comments in this regard.

Official notices advising where the annual reports could be viewed and inviting representations from the public were placed in the local newspaper and on the Municipal website. Copies of the annual reports were placed in the offices of the Dr Beyers Naudé Local Municipality's administration as well as all libraries.

Copies of the reports were also forwarded to the following as required by the MFMA:

- Auditor-General
- Provincial Treasury
- Provincial Department of Co-operative Governance and Traditional Affairs.
- Audit Committee and
- Internal Audit Unit

RESPONSES RECEIVED

A written response was received only from Graaff Reinet Residents' & Ratepayers' Association of which a copy is attached as an annexure and to which the administration acted upon.

SUMMARY OF COMMENTS OF THE OVERSIGHT COMMITTEE ON THE ANNUAL REPORT OF 2021/22

The Oversight Committee is honoured to have been given this task by Council to analyse the draft Annual Report and make recommendations to Council pertaining the Oversight Report.

The Oversight Committee has not taken this task lightly as a result there has been much deliberation by members to ensure that justice is being done. It can further be confirmed that the Oversight Committee has completed its task in terms of the provisions of the Local Government Municipal Structures Act No. 117 of 1999.

Management has provided the Committee with a checklist for the Oversight Committee to make determinations regarding the 2019/20 Annual Report. The determinations made by the Oversight Committee are included in the check list (Annexure C).

Council's attention is also drawn to the following:

- Municipal income lost due to loadshedding
- Increase in debtors
- Increase of creditors from the previous year
- Municipal tariffs which seem not to be cost reflective such as water and electricity

LEGAL FRAMEWORK

- The Constitution (1996);
- Local Government: Municipal Structures Act (1998) (MSA);
- Local Government: Municipal Planning and Performance Regulations (2001);
- Local Government: Municipal Finance Management Act (2003) (MFMA);
- Local Government: Municipal Systems Amendment Act (2003);
- Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers (2006);
- MFMA Circular 11 (Annual Report Guidelines);
- MFMA Circular 13 (SDBIP);
- MFMA Circular 31 (Oversight Report);
- Municipal Public Accounts Committee Guidelines.

CONCLUSION

The Oversight Report could not be presented to Council for consideration by end of **March 2022** and was therefore also not published timeously.

RECOMMENDATIONS

- (a) That Council confirm it's resolution taken during a Special Council Meeting held on 7 June 2023 whereby it adopted the 2021/22 final draft Annual Report of Dr Beyers Naude Local Municipality.

- (b) That Council, having fully considered the draft Annual Report of Dr Beyers Naudè Local Municipality for the 2021/22 Financial Year, adopts the Oversight Report without reservations;
- (c) That the Oversight Report be made public in accordance with Section 129 (3) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003); and
- (d) That the Oversight Report be submitted to the Provincial Legislature in accordance with Section 132 (2) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).

CLLR TRACY-LEE PLAATJIES
CHAIRPERSON OF MPAC

DATE: