

Mbhashe Local Municipality Oversight Report for 2013/14

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CHAPTER ONE

INTRODUCTION

The Municipal Finance Management Act (MFMA) assigns specific oversight responsibilities to Council with regards to the Annual Report and the preparation of an Oversight Report.

Given the processes required by Council to effectively undertake its oversight role, the establishment of an Oversight Committee of Council would provide the appropriate mechanism in which Council could fulfil its oversight responsibilities.

The Oversight Committee's primary role will be to consider the Annual Report, receive input from the various role players and to prepare a draft Oversight Report for consideration by Council.

CHAPTER 2

BACKGROUND

The oversight role of Council is an important component of the financial reforms and it is achieved through the separation of roles and responsibilities between Council, the Executive Committee and Administration. Good governance, effective accountability, and oversight can only be achieved if there is a clear distinction between the functions performed by the different role players.

Non-executive Councillors are required to maintain oversight on the performance of specific responsibilities and delegated powers that they have given to the Executive Committee. In other words, in exchange for the powers in which Council have delegated to the Executive Committee, Council retains a monitoring and oversight role ensuring that there is accountability for the performance or non-performance of the municipality.

The Municipal Finance Management Act, No.56 of 2003 (MFMA) vests in Council specific powers of approval and oversight:

- Approval of budgets;
- Approval of Budget related policies; and
- Review of the Annual Report and adoption of the Oversight Report.

FUNCTIONS OF THE OVERSIGHT COMMITTEE

The functions of the Oversight Committee are to:

- Undertake a review and analysis of the Annual Report.
- Invite, receive, and consider inputs from Councillors and Portfolio Committees, on the Annual Report.
- Consider written comments received on the Annual Report from the public consultation process.
- Conduct Public Hearing(s) to allow the local community or any organs of state to make representations on the Annual Report.
- Receive and consider Council's Audit Committee views and comments on the annual financial statements and the performance report.
- Preparation of the draft Oversight Report, taking into consideration, the views and inputs of the public, representative(s) of the Auditor-General, organs of state, Council's Audit Committee and Councillors.

COMPOSITION OF THE OVERSIGHT COMMITTEE (MPAC)

The Oversight Committee is a committee of Council established under section 79 of the Municipal Structures Act, 1998. Section 79, allows for the co-option of advisory members to a Committee of Council, who are not members of the Council.

Due to the separation of roles and responsibilities, between Council and the Executive (Mayor and Executive Committee) it is not appropriate that members of the Executive Committee be members of the Oversight Committee.

Municipal Public Accounts Portfolio Committee is as follows:

Number	Initials and Surname	Gender	D. Hart
1.	Cllr V Somana (Chairperson)		Political Party
2.	Cllr A Bambiso	M	ANC
3.	Cllr N Mangaliso	M	Cope
4.	Cllr T Mafanya	F	APC
5.	Cllr F Mbiko	F	DA
6.	Cllr S Wulana	F	COPE
7.	Cllr T Tshika	M	UDM
3.		M	INDEPENDENT
9.	Cllr N Magatya	F	ANC
10.	Cllr N Mlungu	F	ANC
	Cllr MN Mlandu	F	
1.	Cllr N Benya	F	ANC
2.	Cllr N Sigcawu	F	ANC
.3.	Cllr T Nodliwa	-	Chief
_		M	ANC

Committee members attendance

It is for the best interest of the council to note that the MPAC has not been functioning well or effective as required. The problem identified was the poor attendance of the members. It resulted in many of the scheduled meetings being cancelled.

4.1 Authority & Power

The Oversight Committee is delegated for the responsibility to conduct meetings and to hold public hearings to receive and hear public submissions on the Annual Report, on

Timely notice of all meetings should be given and all meetings held by the Oversight Committee must be open to the public and minutes of the meetings must be submitted

4.2 LEGISLATIVE AND REGULATORY FRAMEWORK

No 1.	SOURCE	PROVISION OF THE ACT/ REGULATION
	Municipal Structure Act No. 117 of 1998	Establishment of Oversight Committee
2.	Joint Guidelines by Department of Cooperative Governance and Nationa treasury (2011)	Fotoliil
3.	Municipal Finance Management Act No 56 of 2003	 Section 129: Council must consider the Annual Report of the Municipality. Prepare an Oversight Report. Allowance for the submissions and address by the members of the communicipality.
4	Department of Cooperative Governance and National Treasury Guidelines [2011]	 members of the community To consider and evaluate the content of the Annual Report and make recommendation to council when adopting an Oversight report on the Annual Report
5.	Department of Cooperative Governance and National Treasury Guidelines [2011]	 To examine the Financial statements and audit report of the Municipality and consider improvements Consider and evaluate the extent to which the Audit Committee and the Auditor General's recommendations have been implemented To promote Good Governance, transparents
	Municipal Finance Management Act No 56 of 2003	 accountability on the use of Municipal resources. To monitor compliance with Sections 52(d), 71,72,88 and 166 reports
•	Municipal Systems Act No. 32 of 2000	To monitor compliance with section 25,34,39,54 reports
	Local Government: Municipal Planning and Performance Management Regulations [regulation 6]	• To review the draft annual Budget and ensure that it is informed and aligned to IDP
	Guidelines [2011]	 MPAC may engage directly with the public and consider public comments when received. Will be entitled to request documents or evidence from the Accounting officer of the Municipality.

10.	Municipal Finance Management Act Circular 32	 In cases of irregular expenditure or wasteful and fruitless expenditure, MPAC have the right to call upor the Accounting Officer Structure and content of Oversight Report.
11.	Municipal Public Accounts Committee: Terms of Reference on the 31st October 2011.	Resolutions and statement Regulations on the processes and protocols of communication as well as delegated functions by Council
12.	Institution Policies assortment as per Departments	 Budget and Treasury Human Resources Policies By-laws Council Standing Orders Assortment of Plans

CONSULTATION

This section presents a very brief overview of consultations with the various stakeholders and Structures within the municipality as a measure of providing them with space and opportunity to make representations and submissions as set out in both the Municipal Finance Management Act and the Municipal Systems act.

The Municipal Public Accounts Committee is by law obliged to consider all representations in connection to the annual report received from the local community, in its preparation and draft of the Oversight Report. Section 130 (1) (a) prescribes that time be allowed for the discussion of any written submission's received from the local community or organs of the state on the Annual Report.

The Committee will table the Oversight Report to Council as per the following programme:

Structure and responsibility	Date	Activity
Mayor	27 August 2014	Tabling of Annual Report to
Oversight Committee	12,13 and 14 November 2014.	Interrogation of the Annual
Public hearing	01 December 2014	Report by the committee Invite public to make comments on the Annual
Public hearing	03 December 2014	Report (Willowvale) Invite public to make comments on the Annual
Public hearing	04 December 2014	Report (Dutywa) Invite public to make comments on the Annual
Oversight Inauguration meeting	22 January 2015	Report (Elliot dale) Formulation of the draft
Oversight Committee	30 January 2015	Oversight Report Tabling and adoption of
Municipal Manager	07 February 2015	Oversight Report to council Make Oversight Committee
Municipal Manager	07 February 2015	Report public. Submit minutes of the council to the Auditor General.
Municipal Manager	07 February 2015	Submit Oversight Report to Provincial and National Treasury
Municipal Manager	07 February 2015	Submit Oversight report to

Section 121 (a) of the Municipal Finance Management Act (Act No. 56 of 2003) states that," Every Municipality and every municipal entity must from each financial year prepare an annual report in accordance with this chapter."

Section 121 (3) (a) to (k) then specifies the specific elements of report that must be included in the Annual Report as follows:

- a) The annual financial statements of the municipality, and in addition, if section 122(2) applies, consolidated annual financial statements, as submitted to the Auditor - General for audit in terms of section 126(1);
- b) The Auditor-General's audit report in terms of section 126(3) on those financial
- c) The annual performance report of the municipality in terms of section 46 of the Municipal Systems Act;
- d) The Auditor-General's audit report in terms of section 45 (b) of the Municipal
- e) An assessment by the municipality's accounting officer on any arrears on municipal taxes and service charges;
- f) An assessment by the municipality's accounting officer of the municipality's performance against the measurable performance objectives referred in section 17 (3) (b) for the revenue collection from each revenue source and for each vote in the municipality's approved budget for the relevant year;
- g) Particulars of any corrective action taken or to be taken in response to issues raised in the audit reports referred to in paragraphs (b) and (d);
- h) Any explanations that may be necessary to clarify issues in connection with the financial statements:
- i) Any information as determined by the municipality;
- j) Any recommendations of the Municipality's audit committee; and
- k) Any other information as may be prescribed.

The MPAC has perused the report and assessed its structural arrangement and generic compliance as set out in the elements of section 121 of the MFMA and came to the following conclusions:

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- The 2013/14 Annual report is structurally compliant with the paragraphs as set out in section 121 1 to (of the MFMA).
- Sections 127 (2) requires the Mayor of the Municipality to within seven months after the end of the financial year, table in the municipal council the annual report of the

The 2013/14 Annual Report was tabled to council on the 27 August 2014. To this end the Municipal Public accounts Committees is satisfied that the Mayor complied with the The Accounting Officer of the municipality is further obligated in Section 127 (5) to," immediately after an annual report is tabled to council" perform the following:

- Make public the annual report
- Invite the communities to submit representations in connection with the annual
- Do so in terms of section 21A of the Municipal Systems Act which prescribes that all documents that must be made public by the municipality as required by both pieces of legislation namely the Municipal Systems Act and the Municipal Finance Management Act must be conveyed to the communities as follows:
- a) By displaying the documents at the municipality's head and satellite offices and
- b) By displaying the documents on the municipality's official website
- c) By notifying the local community, in accordance with section 21, of the place, including the website address, where detailed particulars concerning the documents
- Section 21 of the Municipal Systems Act prescribes that when communicating anything to the local community in terms of this act or any other legislation, the following must be done:
- make use of the local newspaper or newspapers in its area
- Such a newspaper must have been determined by Council as newspaper of record
- That communication must be done by means of radio broadcasts covering the area of the municipality

Section 21(2) further stipulates that any such notifications must be in the official languages determined by the council, having regard to language preferences and usage

Section 21 (4) determines that when a municipality invites the local community to submit written comments or representations on any matter before the council, it must be stated in the invitation that any person who cannot write may come during office hours to a place where a staff member of the municipality named in the invitation, will assist that person to transcribe that person's comments or representations.

Section 6 (e) of the Municipal Systems Act, obligates the municipal Administration to give members of the local community full and accurate information about the level and standard of municipal services they are entitled to receive.

OVERSIGHT COMMITTEE FINDINGS

6.1 General Findings

Section 6(f) further instructs the Administration to," inform the local community how the municipality is managed, of the costs incurred and the persons in charge". In reference and regards to the above the MPAC explored all relevant documents which

- Public Notice or invitation copy in terms of section 127 (5) (b)
- Portfolio of evidence on making the annual report public.
- Radio broadcast portfolio of evidence
- Website placements
- Record of walk-in queries and copies of submissions and/or representations

The committee after viewing and interacting with documents submitted to it arrived at the following determinations:

- The Publication of the 2013/14 Annual report did not fully comply with the prescripts of sections 127 (5) of the MFMA and sections 21, 21A of the Municipal Systems Act in
- There was no newspaper advert made by the municipality to advertise the Annual
- There was no notification made by means of radio broadcast covering the area of the
- Only public notices were issued.
- There is no proof that the Annual Report was sent to public libraries on time for public comments.

The audit report was not part of the Annual Report as the AG was still busy with the

 The two key vital components enhancing community participation namely, accessibility and language were not satisfactorily optimized. It is imperative that at all times documents be simplified into understandable codes and translated into local language something that will result in better understanding

The Municipal Public Accounts Committee has noted gaps and omissions in the compilation of the Annual Report something that has displayed a potential that threatens the credibility and reliability of the Annual Report and director are required to come to meeting with explanation following.

Management Responses

- Management acknowledges the finding however advertisement will be done for the final report;
- Management acknowledges the finding however communications manager has been appointed and amongst other things he will deal with this function;
- Management disagrees with the finding, Annual reports were sent to Willowvale and Elliotdale libraries but proof of receipts were not signed by the recipients;
- The management agrees with finding and going forward the municipality will derive means to address the matter.

Most of the information that is said to be omitted arises from other institutions that are performing such legislated functions

6.2 Annual Report findings

Chapter One

Finding	Annual Report page number	Comment
The committee discovered that there is an omission of the Overview of the neighborhood within Mbhashe local municipality.	Page 12	Omission was deliberate due to unavailability of statistical data. Authenticity of the data would not be recognized if collected by other stakeholders other than sassa
Chapter 3		
Service Deliv	ery Performanc	e
The committee noted that there are KPA's which were poorly performed under the financial year review. Further stating that out of 126 targets 70 were unacceptable.	26	Management has noted the under delivery of KPA's, however the process has been initiated whereby I identified areas that need improvement and has come up with remedial actions
The committee noted that the nunicipality did not provide information	31	Management acknowledges the finding however since

competency of the municipality. The committee feels that the information regarding the above mentioned services should be part of the Annual Report as these are done within our local municipality.		municipality, recognizing of such functions may obligate the municipality to account on the credibility of that information. Moving
		forward the responsible directorate will consult with relevant departments to seek clarification with regards to the above.
Under Electricity the table for Electricity Service Delivery Levels is omitted and the Electricity Service Levels below minimum.	Not in the Annual Report	The information has been supplied but not in the table format as required by the guide and due to the absence of projections supposed to be in the IDP.
Solid waste Solid waste Service delivery Levels and (Household) Solid waste Service delivery Levels omitted.	Not in the Annual Report	The information has been supplied but not in the table format as required by the guide and due to the absence of projections supposed to be in the IDP.
(Employees) Solid management Services and Waste Management and other services are not part of the Annual Report.	Not in the Annual Report	Management acknowledges the finding, moving forward relevant directorates in consultation with corporate services will furnish the information.
(Financial Performance) Waste disposal and other services omitted in the Annual Report.	Not in the Annual Report	Moving forward the information will be provided as it was not available at the time of publishing
(Capital Projects) Waste Management Service omitted.	Not in the Annual Report	For the year under review, waste management services capital projects were not prioritized.
Percentage of households with access to	Not in the Annual	Management acknowledges the finding, however the

basic housing is omitted.	Report	information could not be provide due to the fact that this function is not form part of our legislated functions
(Capital Expenditure) Housing Services i omitted.	Annual Report	Management acknowledges the finding, however the information could not be provided due to the fact that this function is not form part of our legislated functions
No comment made on the Performance of the Housing Services Overall.	f Not in the Annual Report	Management acknowledges the finding, however the information could not be provided due to the fact that this function is not form part of our legislated functions
Free Basic Services Free basic services to low income households and cost to Municipality of free basic service delivered not in the Annual Report, this information is vital as for not to appear in the Annual Report. Also the committee noted that Free basic service objectives taken from the IDP is omitted.	Not in the Annual Report	Management agrees with the finding; however moving forward the information required will be provided for subsidizing electricity. Other functions are not within our competencies.
The committee could not clearly link the graph provided to the tables linked to the graph. Transport	40	The information provided can be further explained to provide the link between the graphs and tables provided
The committee noted that the information provided under Transport is not sufficient. Only legislation is quoted.	43	Management acknowledges the finding, however we do not render transport services to provide the information requested
Norm Water drainage) :-	Not in the Annual	Management acknowledges the finding, no information was available to be

omitted in the Annual Report.	Report	provided
Local Economic Development The committee noted that there is no mention of job created by LED initiatives excluding the EPWP	Not in the Annual Report	Management acknowledge the finding, however moving forward the directorate responsible wil provide the information required
It was also noted that the information relating to Economic Activity by sector and Economic Employment by Sector is omitted in the AR (Annual Report)	Not in the Annual Report	Management acknowledges the finding, however the information required will be provided moving forward
Community and Social Services The committee noted that the information provided under component D of the Annual report is very minimal and could not apply their minds on it	49	Management acknowledges the finding, moving forward the directorate under question will provide the information required
Environmental Protection No sufficient information provided under Pollution Control in the Annual Report.	49	Management acknowledges the finding, however moving forward the appropriate information will be provided
The information provided under Biodiversity appeared to be insufficient as it is not stated as to who performs the function. It was also emphasized that even if the function is not performed by the municipality the information should be gathered from other sectors or institutions.	49	Management agrees with the finding, however this information must be provided by the directorate under consideration
Health, Food and Abattoir licensing, Fire, Disaster management, Sports and Recreation, Security safety and Police t was noted that there was no information provided under the above components as they are not performed by the municipality. The committee is also not convinced as to why these components cannot be reported in the AR is they are performed within the local	50	Management acknowledges the finding and means to address the matter will be constituted and be included in the next Annual report.

municipality.		
Corporate policy and other services The following were omissions from this component: Introduction to Executive and Council The Executive and Council Policy objectives taken from the IDP also	51	Management acknowledges the finding, however the omitted information will be provided by the respective directorates
Property, Legal, Risk management and procurement	Not in the Annual Report	
Miscellaneous (Component J) is omitted from the Annual Report	Not in the Annual Report	Management acknowledges the finding but the omission was deliberate due to the fact that the municipality does not perform this functions under consideration
Introduction to the Municipal Personnel The committee noted that in Chapter 4 of the AR the following were noted as omissions: Employee totals, Turn over and vacancies table,	Not in the Annual Report	Management acknowledges the finding, however moving forward the information will be provided by the respective directorate.
Vacancy rate table,		
Turnover rate table		
 Number of days and Sick Leaves table, 		
Capacitating the Municipal work force		
Component D of the Annual Report is omitted which comprises the following:		
Employee expenditure;		
 Table where number of employees whose salaries were increased due to their positions being upgraded; 		

Table on employees whose salary levels exceed the grade per the evaluation; Table where the example of the evaluation is the example of the example.		
 Table where employees were appointed to posts not approved; 		
 Disclosures made of financial interests. 		
The committee noted that in chapter 5 of the Annual Report there were omissions made: • Statements of financial performance;		Management acknowledges the finding, however this information is provided starting from page 96 onwards
 Grant received from sources other than DoRA; 		
 Asset Management 		
Financial Ratios		Management acknowledges
The committee noted that there were cases where it's a cut and paste e.g.		the finding, however the directorate under consideration will change
 Cost coverage graph pasted as it is from the Annual Report guide. 	99	the graphs and insert the correct information
 Total outstanding service debtors graph 	100	
 Debt coverage graph 	101	
Spending against Capital budget The committee also noted that the graph for Capital Expenditure on page 106 is copied exactly as it is in the guide.	106	Management acknowledges the finding, the directorate responsible will make the necessary amendments
Capital Spending The following were omitted under Capital Spending:		Management acknowledges the finding, however the information will be provided and updated by
 Capital spending on 5 largest projects is omitted. 	108	the directorate under consideration.
Basic Services and infrastructure backlogs		

Municipal Infrastructure grants	108	
Cash flow management and investments There were omissions noted under this component. The following were noted: • Cash flow outcomes table • Borrowings and investments (Actual borrowings) table	110 110	Management acknowledge the finding, however the table for cash flow is provided on page 110 and the table for borrowings and investments will be provided by the directorate responsible
Supply Chain Management The committee noted that there is no information provided. Under Ward Committee Reports	Not in the Annual Report	Committee reports are dealt with in a separate section on this report and not included Supply Chain Management
 It was noted under Annexure A that the information provided for attendance of councillors appeared to be incomplete and inaccurate. 	123	Management acknowledges the finding; however the annexures will be updated by the responsible directorate with the correct information.
 The committee noted that under appendices B the information provided is not enough. 	125	
 Appendix E does not have all the information required 		
Appendix F omitted	127	
Appendix H,I,J,M,N,O are omitted.		

6.3 Audit outcomes for the financial under review

As it was indicated in the report above that the Audit Report was not part of the Annual Report, the MPAC noted that the municipality has not regressed in the AG's opinion as it received a Qualified opinion.

PUBLIC COMMENTS

The oversight Committee visited the three towns for public comments in the Annual Report and the following were comments from the public:

- The issue of Willowvale surfacing was raised as a concern as the condition of the road is extremely bad.
- The poor performance of the Municipality especially the two departments namely Infrastructure and Strategic Management section
- The Municipality was asked to assist communities in draining toilets.
- Municipality was asked to revisit the indigent register as the people feel sometimes
 people are benefiting while they are not indigent and other people are receiving food
 parcels from SASA they are not rotating.
- Izithulele Access road is a great concern as the community members feel that the
 material used in construction of the road was very poor and as a result the condition of
 the road is bad.
- It was stated that the Mayor should put more emphasis on the public participation and to ensure that Communities participate and they are made aware about everything that has to do with the Municipality.
- The community recognized that the municipality has managed to remove some of the Hawkers in Elloitdale but the Municipality should investigate this issue of hawker store in the taxi rank which is suspected to be leased out by the executive of the Hawkers.
- Mdwaka to Hlamati Access road it was stated that the condition of that access road is very bad and Community was not pleased during the hand over but the municipality continued with the hand over where's the community members were not satisfied, it was further stated that community will be very pleased if the contractor has not yet been paid all the money and the contractor has not paid the workers.
- In ward 15(Nketshu Road Access) the condition of the road is very bad and the community wanted to know whether the retention fees was paid to the Contractor.

RECOMMENDATIONS

- Municipal Manager should ensure that compliance issues regarding the advertising of Oversight Report to the public should be adherence to.
- Office of the Municipal Manager should assist in publishing the annual report as
 prescribed of sections 127 (5) of the MFMA and sections 21, 21A of the Municipal
 Systems Act before Road shows of the Annual Report for the citizen to access it, inorder for them to ask necessary questions during the road show.
- The committee recommends that the Council Resolution must be implemented which states that the Annual Report should be available in two dominate languages used in this Area i.e. English and Isixhosa in the case of Mbhashe Local Municipality.
- The committee recommends that those gaps identified in the Annual Report, management should be given an opportunity to amend and provide sufficient information where it is indicated.
- The committee strongly recommends that the management should make means of providing the information for those components that are not performed by the municipality. e.g. the information regarding water and sanitation can be accessed at District Municipality (Amathole District Municipality) as they did in Statistic South Africa.
- Committee recommends that management should develop an Action Plan to address all the agreed findings in the Annual Report with clear and realistic time frames.
- The committee also noted the comments from the public and will do an investigation on the matters raised and report the findings in the next ordinary council meeting.

CONCLUSION

CONCLUSION

The MPAC would like to thank all the relevant participants for their support and cooperation during the oversight process. The MPAC believes that Mbhashe Municipality and its citizens will realise substantial and tangible benefits if a similar process is consistently followed in years to come.

N.B The committee would like to indicate that there has been a great improvement in the Annual Report comparing it with previous years.

COMMITTEE OVERALL CONCLUSION:

- 1. That Council having fully considered the Annual Report of the Mbhashe Municipality for the 2012/2013 Financial Year adopts the Oversight Report for the 2013/2014.
- 2. That Council endorses the Annual Report of the Mbhashe Municipality for the 2013/2014 Financial Year with reservations (subject to the changes to be done).
- 3. That the Oversight Report be made public in accordance with Section 129(3) of the Municipal Finance Management Act 56 of 2003.
- 4. That the Oversight Report be submitted to the Provincial Legislature in accordance with Section 132(2) of the Municipal Finance Management Act 56 of 2003.