

Carmen Dietrich

From: Annelize Jonker
Sent: Tuesday, 17 November 2020 13:40
To: Carmen Dietrich
Subject: MPAC CHARTER

Raad: 26 Sept 2017

11.1.4 **MPAC KONSEP HANDVES**

DOEL VAN VERSLAG

Om die konsep gewysigde handves van die MPAC aan die Raad voor te lê vir oorweging en goedkeuring.

AGTERGROND

Op 3 Desember 2013 het die Raad die MPAC se handves goedgekeur. As gevolg van die verandering in die Raad ná die Plaaslike Regering verkiesing van 3 Augustus 2016, is daar ook 'n nuwe MPAC saamgestel.

In ag genome verwickelinge in die veld van oorsig die afgelope klompie jare en die nuwe MPAC se wyse van werksaamhede is dit nodig geag dat die bestaande handves aangepas word. Hierdie aanpassing geskied nogsteeds binne die riglyne deur die nasionale regering en SALGA uitgereik.

Die konsep is opgestel tydens 'n werkswinkel gehou op 6 September 2017 waartydens die Interne Ouditeur en die Bestuurder: Strategiese Dienste teenwoordig was vir hulp en leiding. Die gewysigde handves is weer deur MPAC in detail deurgewerk en bespreek op 19 September 2017 ten einde dit te finaliseer vir voorlegging aan die Raad.

Hierdie konsep word nou aan die Raad voorgelê vir oorweging, tesame met die Notules van bogemelde vergadeings (sien *bladsy 24 tot 34*).

PERSONEEL IMPLIKASIES

Geen.

FINANSIËLE IMPLIKASIES

Geen.

WETLIKE IMPLIKASIES

Voldoening aan die Nasionale Tesourie se riglyn vir die daarstelling van 'n MPAC

BESTUURSAANBEVELING

Dat die Raad die konsep handves oorweeg en aanvaar vir implementering.

BESLUIT 197/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.



CAPE AGULHAS MUNICIPALITY

MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) CHARTER

Contents

A. PURPOSE 3

B. LEGISLATIVE BACKGROUND 3

C. AUTHORITY AND INDEPENDENCE 4

D. MEMBERSHIP 4

E. CHAIRING OF MPAC 5

F. FUNCTIONS OF THE MPAC 5

G. FREQUENCY AND NATURE OF MEETINGS 10

H. MPAC ADMINISTRATION 10

I. REPORTING 10

J. MONITORING BY MPAC 11

K. REVIEW OF THE CHARTER 11

CAPE AGULHAS MUNICIPALITY MUNICIPAL PUBLIC ACCOUNTS COMMITTEE Charter

A. PURPOSE

1. A municipal council must strive, within its capacity, to achieve the objectives set out in section 152 of the Constitution of the Republic of South Africa, 1996 (Constitution). Section 19(2)(e) of the Municipal Structures Act, 1998, further indicate that the council has a review (oversight) function to ensure that that s152 of the Constitution is achieved.
2. However, the roles and responsibilities of council should always be carried out with a clear distinction between oversight and interference in administration, as defined in the Municipal Finance Management Act, 2003, (No. Act 56 of 2003) (MFMA), section 52 (b) and 103 respectively as well as in the Code of Conduct for Councillors.
3. Section 129(4) of the MFMA further provides for the issuance of guidance on the manner in which municipal councils should consider annual reports and conduct public hearings, and the functioning and composition of any public accounts or oversight committees established by the council to assist it to consider an annual report.
4. The Municipal Public Accounts Committee (MPAC) is one such oversight body and will assist council to hold the executive (and municipal entities where applicable) to account by way of its recommendations on e.g. cases of negligence, and to ensure the efficient and effective use of municipal resources. By so doing, the MPAC will help to increase council and public awareness of the financial and performance issues of the municipality and its entities.

5. This charter outlines the role, responsibilities, composition and operating guidelines of the MPAC of Cape Agulhas Municipality.

6. The Charter is subject to annual review.

B. LEGISLATIVE BACKGROUND

1. MPAC is established in terms of section 79 of the Municipal Structures Act and performs an oversight function on behalf of council and should not be a duplication of other committees of council, such as the Portfolio Committees or that of the Audit Committee.
2. MPAC will undertake and manage similar functions and responsibilities for municipalities, as undertaken by the Standing Committee on Public Accounts in the national and provincial legislatures, except for certain powers regarding subpoena of individuals.
3. MPAC can request the support of both the internal and external auditors (advisory) when necessary.
4. The standard rules for the Council also apply to MPAC and the committee shall have permanent referral of documents as they become available relating to:
 - (i) In-year reports of the municipality and municipal entities;
 - (ii) Financial statements of the municipality and municipal entities as part of the committee's oversight process;
 - (iii) Reports and recommendations from the Audit Committee;
 - (iv) Information relating to compliance in terms of sections 128 and 133 of MFMA;
 - (v) Information in respect of any disciplinary action taken in terms of the MFMA where it relates to an item that is currently serving or has served before the committee;
 - (vi) Any other audit report from the municipality or its entities; and
 - (vii) Performance information of the municipality and municipal entities.
5. The Committee is advisory in nature and does not have any executive powers.

C. AUTHORITY AND INDEPENDENCE

1. The Cape Agulhas Municipal Council authorises the Committee to fulfil the responsibilities as set out in this charter. In discharging its responsibilities, the Committee has authority to:
 - (i) Conduct investigations into any matters within its scope of responsibility when such investigations are referred to it by the council;
 - (ii) Access information, records and personnel as it requires to fulfill its responsibilities;
 - (iii) Request the attendance of any executive or employee, at Committee meetings;

- (iv) Conduct meetings with External Auditors (Auditor-General) and Internal Auditors as necessary;
- (v) Obtain advice from external parties as necessary; and
- (vi) Enhance communication between the Audit Committee and the Council.

2. MPAC is not responsible for policy formulation or prioritisation matters regarding municipal projects or the role assigned to the Mayor. The MPAC reports directly to Council through the Speaker of the municipality and interfaces with the other committees of council through the Speaker, where relevant.

D. MEMBERSHIP

1. The Committee shall comprise of a minimum of 3 and a maximum of 5 members who will be appointed by the Municipal Council. The MPAC, similar to other council committees, shall comprise solely of Councillors appointed by Council taking into account members of Council that are exclude from serving on this Committee.
2. However, the committee may invite representatives of the community and co-opt members of the public who have expertise in relevant specific fields to assist and advise in the deliberations when the need arise. These representatives will have no voting rights as they are not elected councillors.
3. The MPAC members shall also, as far as possible in relation to the small number of Councillors of the Municipality, be appointed in terms of the various guidelines of the National Treasury without causing a negative impact on the effectiveness of the Committee.
4. Care should be taken that Councillors represent a wide range of experience and expertise available in Council and represent all political affiliations in the Council.
5. Councillors serving on MPAC should be appointed for a term which corresponds to the term of the Council. When a Councillor resigns or is transferred from the Committee, the resignation must be in writing and Council must appoint a replacement by resolution at the next scheduled Council meeting.
6. The names of councillors serving on MPAC will be published in the annual report.

7. The Head of Internal Audit and the municipality's risk officer should also attend as observers in view of their positions within the municipality.

E. CHAIRING OF MPAC

1. The Chairperson of the Committee must be appointed by Council Resolution.
2. When appointing the Chairperson of the Committee, Council must take into consideration the requirements of transparency, ethical behaviour and general good governance prescripts.
3. In deciding on the Chairperson, the Council may consider appointing councillors from parties other than the majority parties in Council.

F. FUNCTIONS OF THE MPAC

1. The following items must be referred to the MPAC as part of the Committees oversight function and its review over the executive:
 - 1.1 **Unforeseen and unavoidable expenditure (MFMA s29)**
 - any unforeseen and unavoidable expenditure incurred must be reported to the MPAC and it must consider the expenditure and make recommendations to the council;
 - consider the proof of the necessary appropriation in an adjustment budget; and
 - where the necessary adjustment budget has not been appropriately prepared, the MPAC must report same to the council.
 - 1.2 **Unauthorized, irregular or fruitless and wasteful expenditure (MFMA s32)**
 - any unauthorised, irregular or fruitless and wasteful expenditure by the council, the executive mayor/mayor, executive committee or any political office bearer of the municipality must also be reported to the MPAC;
 - the municipal manager must report to the MPAC on all steps taken to either authorise or certify the payment or to recover or write off the expenditure;
 - the municipal manager must report on whether any criminal action was instituted in this regard; and
 - The MPAC must report to the council on the appropriateness of the any criminal or civil steps taken and report where no further action was taken and why.

- 1.3 The quarterly report of the mayor on the implementation of the budget and the state of affairs of the municipality (SDBIP) (Section 52(d))
- a copy of the quarterly report of the mayor on the implementation of the budget and the state of affairs of the municipality must be submitted to the MPAC;
 - where the report is not submitted to the MPAC within 30 days after the end of the quarter, the MPAC must report this to the council;
 - where the report is submitted, it must be interrogate recommendations must be made to the council;
 - the MPAC must ensure that the mayor attend to the necessary amendments to the SDBIP and submit the necessary report to the council with proposals for the adjustment budget, and where this is not done by the mayor, report it to the council; and
 - the MPAC must report any matter of concern regarding the report of the mayor to the council.

Progress made with the SDBIP must also be submitted to the MPAC on a quarterly basis for consideration and recommendation.

- 1.4 Monthly budget statements (Section 71)
- the monthly budget statement submitted to the mayor must also be submitted to the MPAC; and
 - the MPAC must interrogate the statement and report any matter of concern on the statement to the council.

- 1.5 Mid-year budget and performance assessment (Section 72)
- the mid-year budget and performance assessment report submitted to the mayor must be submitted to the MPAC; and
 - the MPAC must interrogate the assessment and submit its comments on the assessment to the council.

- 1.6 Disclosures concerning councillors, directors and officials (MFMA s124)
- As part of its interrogation of the annual financial statements, the MPAC must ensure that the necessary disclosures were made in the financial statements, including:
- salaries, allowances and benefits of political office bearers and councillors of the municipality;

- arrears owed by individual councillors to the municipality for more than 90 days;
- salaries, allowances and benefits of the municipal manager, CFO and senior managers;
- salaries, allowances and benefits of the board of directors of municipal entities; and
- the salaries, allowances and benefits of the chief executive officer and senior managers of municipal entities.

- 1.7 Submission and auditing of annual financial statements (MFMA s126)
- Copies of the financial statements submitted to the A-G must be submitted to the MPAC as well as the financial statements of any municipal entity under the control of the municipality as well as proof of submission thereof to the A-G; and
 - Where the MPAC has not been provided with the financial statements or with proof that it has been submitted to the A-G it must be reported to the council.
- 1.8 Submission and review of the Annual Report (MFMA s127)
- The annual report must be referred to the Committee for review. This should preferably be done on the date the draft annual report is tabled in Council.
 - Where the annual report is not submitted to Council the Committee must be provided with a copy of the written explanation of the Mayor.
 - Where neither the report nor the Mayor's written explanations are submitted, the Committee must report this to the Council.

- 1.9 Oversight report on the annual report (Section 129)
- the MPAC must consider the annual report and prepare a draft oversight report to be Submitted to the council for purposes of adopting the oversight report;
 - in preparing the draft oversight report, the MPAC must consider all representations in connection with the annual report received from the local community;
 - the meeting of the MPAC considering the annual report must be open to the public and members of the local community must be allowed to make representations in connection with the annual report at the meeting; and
 - National Treasury Circular 32 provides guidance on the preparation of the oversight report and a copy is attached as Annexure "A" hereto. Reference to the oversight committee must be read as the MPAC.

1.10 Issues raised by the AG in audit reports (OPGAR) (MFMA s131)

- The Committee must be provided with the report prepared to address issues raised by the AG.
- The Committee should interrogate the report and make recommendations to the Council.
- Where the report has not been submitted this must be reported to Council.

1.11 Audit Committee (MFMA s166)

- The Committee must ensure that the municipality at all times have an operational Audit Committee.
- All Audit Committee reports submitted to council need to be submitted to the MPAC in order to fulfill its role of oversight over the Audit Committee.
- Where no Audit Committee has been appointed or where the Audit Committee is not functional, the MPAC must report this to council.

1.12 Monitoring that all declaration of interest forms has been submitted (MFMA s32)

- MPAC must monitor whether all councillors have completed their declaration of interest forms and update it annually; and
- Where declaration of interest forms have not been completed or updated same must be reported to the municipal council.

1.13 Disciplinary action instituted in terms of the MFMA

- all disciplinary processes instituted for the contravention of the MFMA must be reported to the MPAC;
- MPAC must monitor that all matters are brought to conclusion; and
- MPAC must report to council where matters are not dealt with effectively and timeously.

For this purpose, quarterly reports must be submitted by Human Resources to the MPAC for consideration during its quarterly meetings.

2 The MPAC must interrogate the following aspects addressed in the Municipal Systems Act.

2.1 Review of the IDP post elections (Section 25)

- MPAC must monitor whether the Executive mayor / Mayco initiate the review of the IDP posts elections; and
- Where the review is not done the MPAC must report same to the council.

2.2 Annual review of the IDP (Section 34)

- MPAC must monitor whether the Executive mayor / Mayco initiate the annual review of the IDP; and
- Where the review is not done, the MPAC must report same to the council

2.3 Performance management plan (Section 39)

- MPAC must monitor whether the annual performance plan is being prepared; and
- Where the plan is not prepared, the MPAC must report same to the council.

2.4 Monitoring that the annual budget is informed by the IDP (Regulation 6 of the Local Government: Municipal Planning and Performance Management Regulations)

- MPAC must review the draft annual budget and ensure that it is informed by the IDP adopted by the municipal council; and
- Where the draft annual budget is not aligned with the IDP, the MPAC must report same to the municipal council.

2.5 Monitoring that all declaration of interest forms are completed by councillors on an annual basis (Section 54 read with item 7 of Schedule 1)

- MPAC must monitor whether all councillors have completed their declaration of interest forms and update it annually; and
- Where declaration of interest forms have not been completed or updated same must be reported to the municipal council.

G FREQUENCY AND NATURE OF MEETINGS

1. A minimum of four (4) meetings in a financial year must be held accordance with the approved work programme. However, additional or special meetings may be held as is deemed necessary to fulfill the functions of the Committee.

2. The meetings of MPAC must be included in the annual calendar of Council.
3. The notice of meetings shall be given at least 14 days prior to the meeting i.r.o. the quarterly meetings. Notices for additional or special meetings will be distributed as the situation dictates.
4. Agendas and relevant documents shall be received at least 7 days prior to meeting for preparation purposes.
5. A quorum for the Committee shall consist of at three members to be duly constituted.
6. All Committee members are expected to attend each meeting, in person.
7. The procedure of all formally constituted Committee meetings shall be minuted. These shall be reviewed and approved by the members of the Committee and evidenced by signature of the Chairperson at the next meeting.
8. The Constitution provides that a municipal Council must conduct its business in an open manner, and may close its sittings, or those of its committees, only when it is reasonable to do so having regard to the nature of the business being transacted. As a principle, the meetings of the MPAC should be open to the public but the Chairperson may decide to have the meeting in Committee when it is deemed necessary to do so and only with the consent of the full Committee.

H. MPAC ADMINISTRATION

In order for the MPAC to be effective in executing its functions, and being a Committee of Council, the Administrative Support Services section will assume the role of the secretariat to ensure that the MPAC is supported by officials to coordinate and undertake research activities as required by the committee work programme. The Internal Audit function will ensure that MPAC is supported as well as assist the MPAC in its functions with information and documents required within the approved audit plan. Additional services will be referred to Council for funding as and when required.

I. REPORTING

1. The MPAC should report to council at least quarterly and may bring items before Council as and when necessary.
2. The Committee will report to council on the activities of the committee detailing its activities for each quarter, the number of meetings held, including the membership of the committee and key resolutions taken for that quarter.
3. The committee must discuss and adopt its report for Council in accordance with the procedures for tabling matters in council defined in the standing rules of council.
4. The Council should deliberate on the recommendations from the MPAC, at a meeting open to the public, and must reach finality in the shortest possible time. Council must evaluate the performance of MPAC on an annual basis.

J. MONITORING BY MPAC

1. The Committee shall develop a monitoring mechanism to determine if actions have been taken to implement its recommendations.
2. The responses to reports are to be provided to the MPAC as soon as possible after the date of the resolution together with the recommendations to which they relate.

K. REVIEW OF THE CHARTER

The Committee will annually review its Charter to ensure that it remains relevant with the Committee's authority, objectives and responsibilities. All changes or amendments to the Charter will be approved by Council.

Cllr. CJ Jacobs
Committee Chairperson
Date: XX XXX 2017

Council Approval

Approved by Council per Resolution XXX dated xx xxx 2017