



OVERSIGHT REPORT PRESENTED TO COUNCIL ON 28 MARCH 2012

FORWARD BY CHAIRPERSON OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

Mr Speaker, Executive Mayor, Councillors and officials

It is an immense honor and privilege to present to Council today, an Oversight report that was compiled with diligence, insight and particular scrutiny by members of MPAC. I can account that for its inaugural meeting, the seriousness with which MPAC took its responsibility was palpable. I can further account that MPAC has fulfilled its obligations in terms of the provisions of the Local Government Municipal Structures Act, Act 117 of 1998 and the Municipal Finance Management Act, Act 56 of 2003 regarding the exercise of oversight.

The establishment of MPAC is significant to council in such a way that oversight will no longer be a backward looking exercise. Rather, MPAC henceforth, will move with the Annual Report from its point of departure up until its fruition. The next Annual Report will not be a document that MPAC had nothing to do with, but everything to with.

Our focus as MPAC will remain to assist CDM and its entities, to achieve a clean audit report by 2014. In striving for this outcome, I would remind my MPAC colleagues that we must raise our concerns with adamancy, not arrogance. That we engage with humility and respect, not hostility, that our sensibilities must always overshadow our sentiments. I hope that as a committee, we set exemplary standards for others to follow and that we raise the bar of work ethics from achievement to excellence.

For the purpose of transparency and to the knowledge of all non-executive councillors and the public present today, I will table this report by means of a holistic approach for the purpose of clarity.

**COUNCILLOR H M HENDRICKS
CHAIRPERSON**

INTRODUCTION

Council is vested with the responsibility to oversee the performance of its 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 (Systems Act) recognise that council has a critical role to play to ensure better performance by municipal departments and entities. An explicit linkage exists between the strategic goals determined by the Council through the IDP process. These strategic goals 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 to resolve any performance failures, ultimately the council is 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	Executive Mayor	Community
Executive Mayor	Policy, budgets, outcomes, management of / oversight over municipal manager	Municipal Manager	Council
Municipal Manager	Outputs and implementation	The Administration	Executive Mayor
Chief Financial Officer and Senior Managers	Outputs and implementation	Financial Management and Operational Functions	Municipal Manager

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 based 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.

BACKGROUND

Each municipality and each municipal entity must prepare an annual report for each financial year in accordance with the MFMA and MSA. The purpose of the annual report is:

- to provide a record of the activities of the municipality or entity;
- to provide a report on performance in service delivery and against the budget;
- to provide information that supports the revenue and expenditure decisions made; and
- to promote accountability to the local community for decisions made.

Annual reports are the key reporting instruments for municipalities to report against the performance targets and budgets outlined in their strategic plans. Annual reports are, therefore, required to contain information on service delivery and outcomes, in addition to financial statements.

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 four 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.

APPOINTMENT OF MPAC

Council's By-Law relating to the Standing Rules and Orders of the Council makes provision for the establishment of an **oversight committee** under sections 33 and 79 of the Municipal Structures Act 1998. This committee would normally be responsible for the detailed analysis and review of the annual report and then drafting an oversight report that may be taken to full council for discussion.

However, the Department of Co-operative Governance and National Treasury directed that all municipalities establish Municipal Public Accounts Committees (MPACs) to perform the oversight function on behalf of the Council. MPACs powers and functions are wider than those of an Oversight Committee, and after consideration of a report in this regard, Council on 12 October 2011 resolved that a Municipal Public Accounts Committee be established to perform the oversight function on behalf of Council. This includes the detailed analysis and review of the annual report, and drafting an oversight report for consideration by Council.

In terms of the Resolution of Council dated 12 October 2011, the MPAC comprises of non-executive members as detailed below:

Chairperson: Cr Horatio Mario Hendricks
Members: Cr S Lucas
Cr K C Ncamiso
Cr S A Mngwevu

Cr A Booyen
Cr B A Manxoweni
Cr A L Nortjé
Cr R M J Gailey
Cr E A Goliath

PROCESS OF ASSESSMENT OF THE ANNUAL REPORT

The draft annual report for 2010/2011 was tabled at the Council meeting held on 25 January 2012, when it was resolved as follows:

- (a) that the Annual Report for 2010/2011 be made public in terms of section 127(2) of the MFMA and that the local community be invited to submit representations in connection therewith;
- (b) that the draft annual report be submitted to the next meeting of the Cacadu Municipal Public Accounts Committee (MPAC) for analysis and review.

In dealing with the tabled annual report, the Council is required to adopt an oversight report by not later than two months from date of tabling, which for the 2010/2011 annual report will be 28 March 2012.

Advertising Process

After Council meeting on 25 January 2012, and in response to the Council resolution taken at that meeting, the CDM and KDA Annual Reports for 2010/2011 were made public in terms of section 127(2) of the MFMA and the local community was invited to submit representations in connection therewith.

Official notices advising where the annual reports could be viewed and inviting representations from the public were placed in the local newspapers and on the Municipality's website. A copy of the official notice is attached as **Annexure "A"**. Copies of the annual report were placed in the offices of the CDM administration as well as the offices of all local municipalities.

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

- Auditor-General
- Provincial Treasury
- Provincial Department of Local Government and Traditional Affairs.

Responses received

No responses were received by the closing date for input, which was Friday 24 February 2012.

SUMMARY OF COMMENTS OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE ON ANNUAL REPORTS OF CACADU DISTRICT MUNICIPALITY AND KOUGA DEVELOPMENT AGENCY FOR 2010/2011

The 2010/2011 Annual Reports of the Cacadu District Municipality and the Kouga Development Agency (municipal entity) were referred to MPAC for deliberation. The MPAC held meetings on 23 February and 15 March 2012. Copies of the minutes of these meetings are attached as **Annexures "B and "C"** respectively.

In order to approve the annual report without reservations, Council should be able to agree that the information contained in the report is a fair and reasonable record of the performance of the municipality, and properly accounts for the actions of the municipality in the financial year reported upon.

Cacadu District Municipality Annual Report 2010/2011

The Committee raised various issues that were responded to by the Municipal Manager and senior officials of the CDM. The following are some of the issues that the Committee raised, in respect of which reports must be submitted to MPAC:

1. Major underspending on LED budget (3% instead of target of 60%);
2. Report required on approved organogram and outstanding vacancies, including report on risks of not filling positions;
3. Filling of vacancies in the finance section and capacitating the SCM unit to properly deal with all the SCM related laws and requirements (ex AG report page 185);
4. MPAC to make recommendations on slow expenditure - to look at all the issues that are holding up service delivery;
5. Explanation on net income (losses) recognized directly in net assets - Page 44;
6. The supply chain policy should be reviewed - MPAC to make recommendations to improve the policy (find solutions to deal with problems of SCR in consultation with the AG office);

7. Confirmation as to whether all LMs have established ward committees
8. Reasons for slow expenditure on libraries - Page 124;
9. Progress with request to monitor water quality in rivers and dams from which communities draw drinking water - page 144;
10. Irregular Expenditure page 187 - refer back to author for a more detailed explanation of the measures that have been put in place to prevent this from recurring;
11. Action plan required on how issues raised in AG report will be dealt with;
12. Table to MPAC the report referred to on page 189 re disaster management procurement transactions;
13. Action Plan required to address all issues raised by MPAC.

The members also commented on the following:

- Percentage of staff complement with disability needs to be improved;
- MPAC recognizes and applauds excellent work of the Speaker on the issue of Moral Regeneration;
- MPAC recommends that the system of expenditure control be reviewed to close loopholes such as the one that caused an ex-employee to continue receiving a salary for three months after leaving the service;

Notwithstanding the issues raised above, MPAC considered that the annual report of the Cacadu District Municipality comprises a fair and reasonable record of the performance of the municipality, and recommended that it be adopted without reservation.

Annual Report of Kouga Development Agency

The members expressed concern regarding the fact that the KDA Annual report did not contain the report of the Audit Committee and the management response to the issues raised in the AG report. They requested that the annual report be resubmitted to the next meeting with these omissions be corrected. They also requested that the following issues be reported on at the next meeting:

- How the matter relating to the appointment of a developer (Great Force) being dealt with;

- the agreement between Kouga LM, KDA and CDM to be submitted to MPAC so that it can be ensured that Kouga complies with what is legally required by them;
- Legal Officer to advise the District whether there will be any legal implications following the disestablishment of the agency

MPAC has recommended that the annual report of the Kouga Development Agency (KDA) be approved with the following reservations;

- No report by the Audit Committee
- No management response to the issues raised in the AG report.

RECOMMENDED RESOLUTION TO BE ADOPTED BY COUNCIL IN ACCORDANCE WITH SECTION 129 (1) OF THE MFMA:

- (a) That cognizance be taken of the Oversight Report on the 2010/2011 annual reports of the Cacadu District Municipality and Kouga Development Agency;
- (b) that the Council, having fully considered the annual reports referred to in (a) above, adopts the Oversight Report;
- (c) that the 2010/2011 Annual Report of the Cacadu District Municipality be adopted without reservation, but subject to the formulation of an action plan to correct the issues of concern raised by MPAC;
- (d) that the 2010/2011 Annual Report of the Kouga Development Agency be adopted with the following reservations:
 - No report by the Audit Committee
 - No management response to the issues raised in the AG report

and subject to the formulation of an action plan to correct the issues of concern raised by MPAC;

- (e) That the Oversight Report be made public in accordance with section 129(3) of the Municipal Finance Management Act (Act 56 of 2003);
- (f) That the Oversight report be submitted to the Provincial Legislature in accordance with section 132(2) of the Municipal Finance Management Act (Act 56 of 2003).