



BERGRIVIER MUNICIPALITY

TERMS OF REFERENCE

MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

(MPAC)

FEBRUARY 2024

APPROVED BY COUNCIL 25 MARCH 2024

ITEM NR: RVN018/03/2024

Terms of reference applicable to the Municipal Public Accounts Committee (MPAC)

1. Background

Bergrevier Municipality established a MPAC since 27 September 2016 (RVN19/09/2016) when full Council approved the establishment of the MPAC, the Terms of Reference for the MPAC, the applicable delegations, the Chairperson, and the Rules of Order.

Since 2016 Council took further decisions concerning the MPAC on 22 January 2019 (RVN036/01/2019) and amended the composition of MPAC and changed the Chairpersonship.

On the 1st of November 2021 the amendments to the Structures Act (Act 117 of 1998) were enacted through Act 3 of 2021 (Structures Amendment Act). The provisions governing a Municipal Public Accounts Committee is found in section 29 of the Amendment Act. A new section 79A is created in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1989)(as amended) and provides as follows:

“Establishment of municipal public accounts committee

*79A. (1) A Municipal council **must** establish a committee called the municipal public accounts committee.*

(2) The mayor or executive mayor, deputy mayor or executive deputy mayor, any member of the executive committee, any member of the mayoral committee, speaker, whip and municipal officials are not allowed to be a member of the municipal public accounts committee.

(3) The municipal council must determine the functions of the municipal public accounts committee, which must include the following:

- (a) review the Auditor-General’s reports and comments of the management committee and the audit committee and make recommendations to the municipal council;*
- (b) review internal audit reports together with comments from the management committee and the audit committee and make recommendations to the municipal council;*

- (c) *initiate and develop the oversight report on annual reports contemplated in section 129 of the Local Government: Municipal Finance Management Act;*
- (d) *attend to and make recommendations to the municipal council on any matter referred to it by the municipal council, executive committee, a committee of the council, a member of this committee, a councillor and the municipal manager; and*
- (e) *on its own initiative, subject to the direction of the municipal council, investigate and report to the municipal council on any matter affecting the municipality.*
- (4) *Reports of the municipal public accounts committee must be submitted to the speaker who must table such reports in the next meeting of the municipal council.*
- (5)(a) *For the purposes of this section 'audit committee' means the audit committee envisaged in section 166 of the Local Government: Municipal Finance Management Act.*
- (b) *Each municipality and each municipal entity must establish an audit committee in accordance with that section."*

During January 2023 full Council gave approval for the Chairperson of the MPAC to be a full time Councillor and that the MEC for Local Government in the Province be requested to amend the Establishment Notice of Bergrivier Municipality to provide for this. This was finalized and implemented.

2. Composition

The MPAC for Bergrivier Municipality will consist of 6 members as approved by Council on 24 January 2023. The 6 members consist of non-executive councillors and independent external members. The executive mayor, executive deputy mayor, any member of the executive committee, any member of the mayoral committee, speaker, whip and municipal officials are not allowed to be members of the Committee;

The MPAC will be a section 79 Committee of Council and reports directly to Council.

The Chairperson of MPAC is a full-time Councillor and elected by full Council.

The MPAC shall meet six times per annum as scheduled between the Chairperson and the Municipal Manager.

The Chairperson will liaise directly with the Speaker on the inclusion of reports from the MPAC to Council.

3. Rules of Order

The MPAC will follow the Rules of Order of the Council of Bergrivier Municipality as determined from time to time.

4. Roles and functions

In terms of Section 79A of the Structures Act, the functions of the MPAC must be determined by Council (but must include the compulsory functions as determined by law)

The MPAC must interrogate the following financial aspects addressed in the Municipal Finance Management Act (MFMA):

4.1 Unforeseen and unavoidable expenditure (Section 29)

- any unforeseen and unavoidable expenditure incurred must be reported to the MPAC after condonation has been considered by Council;
- proof of the necessary appropriation in an adjustment budget must be provided when requested by the MPAC.

4.2 Unauthorized, irregular or fruitless and wasteful expenditure (Section 32)

- any unauthorized, irregular or fruitless and wasteful expenditure by the council, the executive 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 authorize 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.

4.3 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 interrogated and recommendations must be made to the council where applicable;
- the MPAC must report any matter of concern regarding the report of the mayor to the council.

4.4 Monthly budget statements (Section 71)

- the monthly budget statement submitted to the mayor must be submitted to the Chairperson of the MPAC monthly (e-mail will suffice) and to the members at the scheduled MPAC meetings;
- the MPAC must interrogate the statement and report any matter of concern on the statement to the council (if any).

4.5 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;
- the MPAC must interrogate the assessment and submit its comments on the assessment to the council.

4.6 Disclosures concerning councillors, directors and officials (Section 124)

The MPAC must ensure that the following disclosures were made in the financial statements:

- salaries, allowances and benefits of political office bearers and councillors of the municipality;
- arrears owed by individual councillors by the municipality for more than 90 days; and
- salaries, allowances and benefits of the municipal manager, CFO and senior managers.

4.7 Submission and auditing of annual financial statements (Section 126)

- copies of the financial statements submitted to the A-G must be submitted to the MPAC as well as proof of submission thereof to the A-G;
- the MPAC should consider the minutes of the Audit Committee of the meeting in which they considered and commented on the Annual Financial Statements. Where there are matters for concern not raised by the Audit Committee, the MPAC should report it to Council;
- 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.

4.8 Submission of the annual report (Section 127)

- the annual report must be submitted to the MPAC no later than two weeks after the date required for submission to the council;
- where the annual report is not submitted to the council as required, the MPAC must be provided with a copy of the written explanations of the mayor as submitted to the council;
- where neither the annual report nor the explanation has been submitted, the MPAC must report same to the council; and
- the MPAC must monitor that the annual report has been submitted to the A-G, as well as the provincial government departments required and has been published for comment.

4.9 Oversight report on the annual report (Section 129)

- That the MPAC perform the role of the oversight committee provided for in Section 129 of the MFMA;
- The MPAC must consider the annual report of the Municipality and prepare a draft oversight report to be submitted to Council for purposes of adopting the oversight report;
- In preparing the draft oversight report, the MPAC must consider all written representation received from the public (if any) in connection with the annual report;
- The meeting of Council (where the MPAC Chairperson will present the MPAC Oversight Report) is open for the public.
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4.10 Issues raised by the Auditor-General in audit reports (Section 131)

- the MPAC must be provided with the report prepared to address issues raised by the A-G and with any quarterly updates on the report where applicable.

4.11 Audit Committee (Section 166)

- the MPAC must ensure that the municipality at all times have an operational audit committee;
- all audit reports received from the audit committee need to be submitted to the MPAC to assist it in its functions and to capacitate the MPAC;
- where no audit committee has been appointed or where the audit committee is not operative, the MPAC must report this to the council.

4.12 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;
- MPAC must report to council where matters are not dealt with effectively and timeously.

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

4.13 Review of the IDP post elections (Section 25)

- MPAC must monitor whether the Executive mayor initiated the review of the IDP posts elections;
- Where the review is not done, the MPAC must report same to the council.

4.14 Annual review of the IDP (Section 34)

- MPAC must monitor whether the Executive Mayor initiated the annual review of the IDP;
- Where the review is not done, the MPAC must report same to the council.

4.15 Performance management plan (Section 39)

- MPAC must monitor whether the Municipality has an annual performance management system;
- Where the system is not operational, the MPAC must report same to the council.

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

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

4.17 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;
- Where declaration of interest forms have not be completed or updated same must be reported to the municipal council.

4.18 The following compulsory functions as determined by Section 79A of the Structures Act:

- review the Auditor-General reports and comments of the Management and the Audit Committee and make recommendations to the municipal council;
- review internal audit reports together with comments from the Management and Audit Committee and make recommendations to the municipal council;
- initiate and develop the oversight report contemplated in section 129 of the annual report as required in terms of section 129 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- attend to and make recommendations to the municipal council on any matter referred to it by the municipal council, executive committee, a committee of the council, a member of this committee, a councillor and the municipal manager; and
- on its own initiative but subject to the direction of the municipal council, investigate and report to the municipal council on any matter affecting the municipality.

5. Authority

5.1 MPAC will have the right to request the Speaker to ensure that any Councillor appear before it to provide information / feedback / reports or clarity on any matter included in the functions of the MPAC.

5.2 MPAC will have the right to call upon the Accounting Officer of the Municipality or his/her delegatee to appear before it to provide information / feedback / reports or clarity on any matter included in the functions of the MPAC. The Accounting Officer will instruct any employee of the Municipality to appear before the MPAC as needed and requested.

5.3 MPAC can request the support of both the internal and external auditors (advisory) when necessary. The MPAC shall have permanent referral of documents as they become available relating to In-year reports of the Municipality, financial statements, audit opinion, information relating to compliance in terms of sections 32, 128 and 133 of the MFMA and any other relevant information required.

The MPAC is not responsible for policy formulation or strategic direction. The MPAC reports directly to Council through the Speaker and interfaces with the other committees of Council through the Speaker, where relevant and with the Mayor through the Executive Mayor.

6. Administrative Support

6.1 In order for the MPAC to function effectively, it is supported for agenda and minute purposes by the Administration and assisted by the Internal Auditor and the Secretariate respectively.

6.2 MPAC must develop an annual work programme / plan before the end of the calendar year for the next calendar year and link such programme to the overall planning cycle of the Municipality. MPAC must ensure that all these functions are disposed of in the annual work plan.

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