

2021/2022 OVERSIGHT REPORT



MARCH 2023

OVERSIGHT REPORT REGARDING THE 2021/2022 ANNUAL REPORT OF SWARTLAND MUNICIPALITY

1. OBJECTIVE

To submit to Council, in terms of Section 129 of the MFMA, the Oversight Report on the Annual Report, covering Swartland Municipality in respect of the 2021/2022 financial year.

2. BACKGROUND

2.1 Annual Report

The 2021/2022 Annual Report was tabled in Council on 26 January 2023, reporting on the municipality's performance for the period 1 July 2021 until 30 June 2022.

By doing so, Council complied with section 127 of the MFMA which stipulate that the Executive Mayor must table the Annual Report in Council within 7 months after the end of the financial year, i.e. by the end of January 2023.

The Council of Swartland Municipality is furthermore required to engage with, and finalise the Annual Report within 9 months after the end of the financial year, which is before 31 March 2023.

The process for the finalisation and approval of the 2021/2022 Annual Report is set out in the table below:

Activity Description	Provision	Target
Preparation of annual financial statements of the municipality and submission to the Auditor-General	MFMA Section 122(1)(2)	By 31 August 2022
Receipt of final audit report from Auditor-General	MFMA Section 126(3)(b)	By 30 November 2022
Tabling of Annual Report in Council by Executive Mayor	MFMA Section 127(2)	26 January 2023
Allowing for comment by community and relevant state organs	MFMA Section 127(5)(a) & (b)	27 January 2023 to 1 March 2023
Corrective actions to AG's opinion formulated and tabled in Council	MFMA Section 121(3)(g)	Part of Draft annual Report tabled 26 January 2023
Consideration and adoption of Annual Report and Oversight Report	MFMA Section 129(1)	30 March 2023
Submission of Annual Report and Oversight Report to AG, Provincial Treasury and MEC: Local Government	MFMA Section 129(2)(b)	3 April 2023
Communication of final Annual Report / Oversight Report (website, hard copies and other mediums)	MFMA Section 129(3)	3 April 2023

2.2/...

2.2 Oversight Report

The adoption of 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 reports of its municipality and to adopt an “oversight report” containing the Council’s comments.

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.

National Treasury issued Circular 32 on 15 March 2006 (attached as Annexure B) on the preparation of oversight reports and provides guidelines on the processes to be followed in the adoption of the Oversight Report to which this report conforms.

The Oversight Report is a separate product from the Annual Report. The Annual Report is submitted to the Council by the Accounting Officer and the Executive Mayor and is part of the process for discharging accountability by the executive and administration for their performance in achieving objectives and goals set by the municipality in the relevant financial year. The Oversight Report follows consideration and consultation on the Annual Report and is considered to be a report of the municipal council.

After tabling of the 2021/2022 Annual Report on 26 January 2023, in line with Section 127(5) of the MFMA, Swartland Municipality allowed for public comments regarding the draft Annual Report from 27 January 2023 to 1 March 2023.

The Annual Report was made available on Council’s website, as well as at all (6) municipal offices and (9) libraries in the municipal area. In addition, the Annual Report was made available to the following offices:

- The Office of the Auditor-General
- The Provincial Treasury
- The MEC for Local Government.

The accounting officer (Municipal Manager) of Swartland Municipality attended all council meetings where the Annual Report was discussed, i.e. on 26 January 2023. A copy of the minutes of this meeting is appended to this report as Annexure A¹. A copy of the minutes of the Municipal Public Account Committee meetings held on 9 March 2023, which was also attended by the accounting officer (attached to this report as Annexure C).

3. KEY COMMENTS AND RESPONSES

Circular 32 of the National Treasury recommends that the summary of key issues raised by the community, Auditor-General and other spheres in government, be detailed in the Oversight Report. In addition, the Circular proposes that responses to questions raised in written representations be captured in the Oversight Report. This section summarises the key questions and comments from the Auditor-General, the municipality’s audit committee, the Council, as well as the responses by the Municipality’s Executive Management.

3.1/...

¹ Refer paragraph 7.1 of Annexure A

3.1 The Auditor-General's Management Letter and Response by Management

3.1.1 **Audit opinion** (excerpt from Report of the auditor-general to the Western Cape Provincial Parliament and the council on Swartland Municipality dated 30 November 2022)

"2. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Swartland Municipality as at 30 June 2022, and its financial performance and cash flows for the year then ended in accordance with Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Municipal Finance Management Act 56 of 2003 (MFMA) and the Division of Revenue Act 9 of 2021 (Dora)."

"Internal control deficiencies"

"31. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it."

"32. I did not identify any significant deficiencies in internal control."

3.1.2 **Managements response to the Auditor-General's finding and performance evaluation**

The Municipality received a clean (unqualified with no material findings as envisaged by Section 122 of the MFMA) audit report for the 2021/2022 financial year. This in itself speaks to and is proof of the dedication of management and personnel to meet and maintain high standards of performance at all times. The achievement of 10 clean audits since 2010/2011 confirms Swartland Municipality's reputation as a governance leader.

The Annual Financial Statements (AFS) and performance information were without any material uncorrected misstatements, which can be attributed to proper record keeping, processing and reconciling controls, and regular reporting that is monitored. The use of governance structures in key risk areas within the municipality should be continued to ensure that deficiencies identified are adequately responded to and monitored through management's action plan.

Clean administration entails effective teamwork amongst all departments within the municipality, the right attitude of its workforce and keeping staff accountable for their area of responsibility. The Swartland Municipality continues to subscribe to high levels of good governance and clean administration.

Whilst the adoption of the Oversight Report is the final step in accepting the 2021/2022 annual performance, the evaluation of the annual performance was done on 9 September 2022 by the evaluation panel appointed in accordance with the Performance Agreements entered into with the Municipal Manager and directors.

3.1.2/...

The Framework for the Implementing of Performance Management was adopted by the Executive Mayoral Committee on 15 June 2021 allowing for a performance bonus to be paid to the Municipal Manager, according to the calculation table in Annexure A of the framework up to a maximum of 14%.

The results of the performance evaluation on 9 September 2022 for the 2021/2022 financial year are as follows:

- Municipal Manager = 13%

3.2 Key comments: Executive Mayor, community and Organs of State

No comments were received from any community member.

The comments received from the Western Cape Government: Provincial Treasury are contained in a letter dated 24 February 2023 (attached as Annexure C) and stated that:

“The Municipality is compliant with the legislative requirements as per MFMA Sections 75, 121 and 127. The Report is also in alignment with the format as stipulated in MFMA Circular 63.”

3.2.1 Management response to comments received from the Western Cape Government: Provincial Treasury

Paragraph 2.1 (b): “The unaudited Annual Report was not tabled to Council at least two months after the end of the financial year in accordance with MFMA Circular 63.”

Section 121 of the MFMA determines that the annual report of a municipality must include, inter alia

- (a) the annual financial statements of the municipality;
- (b) the Auditor-General's audit report in terms of section 126(3) on those financial statements.

It will be premature of the Municipality to submit the unaudited Annual Report to Council at least two months after the end of the financial year as it will not adhere to the legislative requirements. Furthermore, by submitting the unaudited Annual Report it becomes a public document with unreliable information, but moreover being unaudited by the AGSA.

Therefore – as in previous years – the Municipality suffices with adherence to the legislative requirement rather than a MFMA circular which has no legislative pertinence, by only tabling the annual report by the end of January as required by the MFMA.

Paragraph 2.2(d): “Appendix G, Reference to the Recommendations of the Municipal Performance and Risk Audit Committee for year ended 30 June 2022, is not included.”

The annual report of the Municipal Performance and Risk Audit Committee is to be included in the final Annual Report.

Paragraph 3: "Black Economic Empowerment"

The AFS wrongly referenced a section in the Annual Report on black economic empowerment. The information on black economic empowerment as required by the annual report-template is not available and therefore not included in the annual report.

3.3 Key comments: MPAC-Committee (including members of External Audit Committee)

Minutes of MPAC committee meetings held on 9 March 2023 appended as Annexure D.

3.4 Key comments: Council

Minutes of Council meeting held on 30 March 2023 appended hereto as Annexure E.

4. LEGAL AND CONSTITUTIONAL IMPLICATIONS

The 2021/2022 Annual Report and Oversight Report have been prepared in compliance with the provisions of the Municipal Systems Act and the Municipal Finance Management Act, and conform to the guidelines in Circular 32 issued by National Treasury.

5. COMMUNICATIONS IMPLICATIONS

The full text of the 2021/2022 Annual Report and Oversight Report will be distributed to the MEC of Local Government, Provincial Treasury, the Auditor-General and Provincial Legislature. The full text will also be published on Swartland Municipality's website.

6. RECOMMENDATION

It is recommended to Council on 30 March 2023² -

- (a) That Council, having considered the 2021/2022 Annual Report of Swartland Municipality, adopts the Oversight Report in terms of section 129 of the Municipal Finance Management Act;
- (b) That the 2021/2022 Annual Report of Swartland Municipality be approved without reservations, in terms of section 129 of the MFMA;
- (c) That the minutes of the meetings where the Annual Report was discussed, in the presence of the accounting officer (Municipal Manager) be submitted to the Auditor-General, the Provincial Treasury and the Western Cape Department for Local Government as attached to the report, in terms of section 129(2) of the MFMA;
- (d) That the 2021/2022 Oversight Report of Swartland Municipality be made public in terms of Section 129(3) of the MFMA and be submitted to the Western Cape Legislature in terms of Section 132(2) of the MFMA;
- (e) That, in acceptance of the Oversight Report, the payment of a performance bonus be approved by Council as per paragraph 3.1.2.

² Minutes of Council meeting held on 30 March 2023 will be attached as Annexure E in final report

ANNEXURE A



MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL HELD IN THE TOWN HALL, MALMESBURY ON THURSDAY, 26 JANUARY 2023 AT 10:00

PRESENT:

Speaker, ald M A Rangasamy
Executive Mayor, ald J H Cleophas
Deputy Executive Mayor, clr J M de Beer

COUNCILLORS:

Bess, D G (DA)	Papier, J R (GOOD)
Booyesen, A M (VF+)	Penxa, B J (ANC)
Daniels, C (DA)	Pieters, C (ANC)
Duda, A A (EFF)	Pypers, D C (DA)
Fortuin, C (ANC)	Smit, N (DA)
Jooste, R J (DA)	Soldaka, P E (ANC)
Le Minnie, I S (DA)	Van Essen, T (DA)
Ngozi, M (ANC)	Van Zyl, M (DA)
O'Kennedy, E C (DA)	Warnick, A K (DA)

Officials:

Municipal Manager, mr J J Scholtz
Director: Electrical Engineering Services, mr T Möller
Director: Financial Services, mr M A C Bolton
Director: Protection Services, mr P A C Humphreys
Director: Civil Engineering Services, mr L D Zikmann
Director: Corporate Services, ms M S Terblanche
Director: Development Services, ms J S Krieger
Manager: Secretarial and Records, ms N Brand

1. OPENING

Pastor Mark Solomon from the Seventh Day Adventis Church, Malmesbury opened the meeting with a scripture reading and a prayer at the request of the Speaker.

The Speaker welcomed the Executive Mayor, aldermen, alderdames, councillors, officials and members of the public.

The Speaker congratulated councillors who had celebrated birthdays recently.

2. APOLOGIES

Apologies received from ald B J Stanley and clr G Vermeulen.

3. DEPUTATIONS/DECLARATIONS AND COMMUNICATIONS/SUBMISSIONS

3.1 TRIBUTE TO ALD KLASIE RUST

The Speaker voiced his commiseration on the death of Ald Klasie Rust and requested the Executive Mayor to deliver a tribute.

The Executive Mayor referred to the meritorious number of years service given by Ald Klasie Rust from 1979 to 2016 to the previous municipalities, Swartland Municipality and the West Coast District Municipality.

3.1/...

The Executive Mayor stated that ald Rust was a true gentleman and still showed interest in the matters of the Municipality after his retirement. Ald Rust was an honest person and served the community with dignity.

The Executive Mayor requested ald T van Essen to light a candle in remembrance of ald Rust, after which a minute's silence was observed for all residents who had lost loved ones recently through death.

3.2 HANDING OVER OF CERTIFICATES IN RESPECT OF COMPLETION OF THE COURSE WITH RESPECT TO GENDER BASED VIOLENCE

The Speaker, in conjunction with the Director: Development Services, handed over certificates to the following councillors who had successfully completed the course in respect of gender based violence, namely -

- The Deputy Executive Mayor, clr J M de Beer
- Clr D G Bess
- Clr A M Booyesen
- Clr N Smit
- Clr D C Pypers
- Clr G Vermeulen

3.3 NOTICE OF UPCOMING OPPORTUNITIES

The Municipal Manager brought the following to the attention of the councillors, namely

- The official opening of the Western Cape Parliament and the address by the Premier which will take place in the Banqueting Hall on 16 February 2023 at 10:45;
- The various SALGA working groups during the week of 13 February 2023 to be held in George, which will be in a hybrid format and the relevant councillors can therefore join in virtually.

4. MINUTES FOR APPROVAL

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 27 OCTOBER 2022

RESOLUTION

(proposed by add M van Zyl, seconded by ald T van Essen)

That the minutes of an Ordinary Council Meeting held on 27 October 2022 are approved and signed by the Speaker.

4.2 MINUTES OF A SPECIAL COUNCIL MEETING HELD ON 30 NOVEMBER 2022

RESOLUTION

(proposed by add M van Zyl, seconded by ald T van Essen)

That the minutes of a Special Council Meeting held on 30 November 2022 are approved and signed by the Speaker.

5. REPORTING IN RESPECT OF THE DECISION MAKING BY THE EXECUTIVE MAYOR

RESOLUTION

That note is taken of the decisions made by the Executive Mayor in accordance with his delegated authority in the following minutes:

5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 18 OCTOBER 2022 read in conjunction with

MINUTES OF A MEETING OF THE PORTFOLIOS COMMITTEE HELD ON 11 OCTOBER 2022

5.2 MINUTES OF A SPECIAL MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 24 OCTOBER 2022

5.3 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 16 NOVEMBER 2022
read in conjunction with

MINUTES OF A MEETING OF THE PORTFOLIOS COMMITTEE HELD ON 9 NOVEMBER 2022

5.4 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 14 DECEMBER 2022

REPORTING IN RESPECT OF THE DELEGATED DECISION MAKING BY THE MUNICIPAL MANAGER

RESOLUTION

That note is taken of the decisions made by the Municipal Manager in accordance with his delegated authority in the following minutes:

6.1 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 11 OCTOBER 2022

6.2 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 8 NOVEMBER 2022

6.3 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 14 NOVEMBER 2022

6. MATTERS ARISING FROM THE MINUTES

None

8. MATTERS FOR DISCUSSION

8.1 SUBMISSION OF THE DRAFT ANNUAL REPORT: 2021/2022 FINANCIAL YEAR (7/1/1/1)

The Executive Mayor presented the 2021/2022 Draft Annual Report and congratulated the Municipality on obtaining a 10th clean audit. Thanks and appreciation were given to each and every official who contributed to the success of the Municipality.

The 2021/2022 Draft Annual Report was drawn up according to the format prescribed in MFMA Circular 63 dated 26 September 2012, and submitted to the Council in accordance with section 127(2) of the Local Government: Municipal Financial Management Act, 2003 (MFMA, Act 56 of 2003).

The annual report includes, inter alia, -
(1) the financial statements;
(2) audit report from the Auditor General; and
(3) the annual performance report.

The Speaker requested that if councillors have input/comment to the draft annual report during the public participation process it must be delivered in writing to the Municipal Manager before/on 28 February 2023.

RESOLUTION

(proposed by ald J H Cleophas, seconded by clir D C Pypers)

- (a) That cognisance be taken of the annual report in respect of the 2021/2022 financial year, as tabled in terms of section 127(2) of the MFMA, and of which the tabling is done in the format as prescribed by National Treasury's MFMA Circular 63 of 2012;

8.1/...

- (b) That cognisance be taken of the following steps to be taken in terms of section 127 of the MFMA, being
(i) disclosure of the annual report;
(ii) inviting the public to submit representations in connection with the report;
(iii) inviting the public and relevant organs of state to attend the council meeting on 30 March 2023, when the annual report and oversight report will be discussed;
(iv) submission of the annual report to the Auditor-General, provincial treasury and the provincial department responsible for local government;
- (c) That the MPAC, after the closing of comments on the annual report, undertake a detailed analysis of the representations received in order to compile the draft oversight report for consideration by the Council on 30 March 2023;
- (d) That councillors who are not members of the MPAC take note that they should also be conducting their own review of the report by inter alia having discussions with their constituents, ward committees and ward representatives to encourage inputs and comments for consideration at the full council meeting on 30 March 2023.

8.2 QUARTERLY REPORT (SECTION 52 OF MFMA): 1 OCTOBER TO 31 DECEMBER 2022 (7/1/1/2-2)

The submission of the quarterly report is prescribed by section 52(d) of the MFMA, Act 56 of 2003.

The submission of the report to the Council serves as one of the Executive Mayor's general responsibilities in order to inform the Council in respect of the implementation of the budget and the state of the Municipality's financial matters.

The quarterly report in respect of Quarter 2 as of 31 December 2022 was circulated with the agenda.

RESOLUTION

(proposed by ald J H Cleophas, seconded by clir E C O'Kennedy)

That Council takes cognisance of the attached quarterly report, as required by Section 52 of the Municipal Finance Management Act, Act 56 of 2003 in respect of the implementation of the budget as well as the performance against the Top Layer Service Delivery and Budget Implementation Plan of the municipality for the period 1 October to 31 December 2022.

8.3 HALF YEARLY BUDGET AND PERFORMANCE EVALUATION OF THE 2022/2023 FINANCIAL YEAR (7/1/2/2-2)

Section 72 (1) of the MFMA, Act 56 of 2003 stipulates that the accounting official must evaluate the performance of the Municipality during the first half of the financial year and submit it to the Executive Mayor before 25 January every year.

The Executive Mayor tabled the Half-Yearly Budget and Performance Report, as drawn up in line with the stipulations of the Municipal Budget and Reporting Regulations (General Notice 393 as promulgated in the Government Gazette dated 17 April 2009).

RESOLUTION

(proposed by ald J H Cleophas, seconded by add M van Zyl)

That cognisance be taken of the mid-year budget and performance assessment i.r.o. the first half of the 2022/2023 financial year and more specifically the need to revise the original budget by way of an adjustments budget.

8.4 APPROVAL OF THE 2022/2023 HALF-YEARLY ADJUSTED CAPITAL AND OPERATING BUDGETS 5/1/1/1, 5/1/1/2)

The 2022/2023 Half-yearly Adjusted Capital and Operating Budgets were considered, for approval by the Council, during an Executive Mayor's Committee Meeting held on 18 January 2023 and are tabled by the Executive Mayor.

The submission of the adjusted budget takes place in accordance with section 28 of the MFMA, Act 56 of 2003 after the performance of the Municipality during the first half of the financial year has been evaluated – refer to item 8.3.

The Director: Financial Services gave a brief overview of the adjustments in respect of the capital and operating budgets.

The Speaker brought the matter to the vote and it was decided (in the absence of two councillors) with 13 councillors in favour thereof and eight councillors who abstained from voting.

RESOLUTION

(proposed by ald J H Cleophas, seconded by clr N Smit)

- That it be noted that the Budget Steering Committee convened to consider the explanations and motivations provided by the financial staff and other directors in a bid to advise the Executive Mayor on way forward;
- That council takes note of the proposed adjustment (as it relates to Section 19) in respect of the Waste Water Treatment Works: Moorreesburg and Resealing of Swartland Roads (**Annexure A-2: Capital Projects ito Sec 19**);
- That approval be granted to amend the high-level capital and operating budget for 2022/2023 with no amendments to the outer years as follows:

	Original Budget 2022/23	Mid-Year Adj Budget 2022/23	Adjustments	Original Budget 2023/24	Original Budget 2024/25
Capital budget	191 095 805	167 894 804	(23 201 001)	195 834 903	165 690 722
Operating Expenditure	1 029 331 855	1 025 575 992	(3 755 863)	1 061 375 491	1 139 864 061
Operating Revenue	1 093 983 961	1 087 072 579	(6 911 382)	1 123 993 179	1 174 158 797
Budgeted (Surplus)/ Deficit	(64 652 106)	(61 496 587)	3 155 519	(62 617 688)	(34 294 736)
Less: Capital Grants & Contributions	77 109 000	67 945 510	(9 163 490)	73 351 000	35 935 000
(Surplus)/ Deficit	12 456 894	6 448 923	(6 007 971)	10 733 312	1 640 264

- That it be noted that the changes to the budget will have no impact on tariffs in respect of the 2022/2023 financial year or beyond but will result in a decreased budgeted net deficit from R12 456 894 to a budgeted net deficit of R6 448 923;
- That the unauthorised expenditure of R11 717 297 for the 2021/2022 financial year be authorised in this adjustments budget in line with section 32(2)(a)(i) of the Act;
- That the adjusted budget schedules as required by the Budget and Reporting Regulations be approved as set out in (**Annexure C: Budget Report and B-Schedules 2022/23 – 2024/25**);
- That the Director: Financial Services adhere to the requirements of the Budget Circulars and Budget Reforms in the context of the reporting requirements to Provincial and National Treasury;
- That the Service Delivery Budget Implementation Plan (SDBIP) where appropriate be amended accordingly.

8.5 SWARTLAND MUNICIPALITY: FINAL ACCEPTANCE OF REVISED SERVICE STATEMENT (4/1/1/2/1)

The Municipality's service statement has been revised in terms of the Local Government: Municipal Personnel Regulations, No 890 and No 891 dated 20 September 2021 and submitted to the Council on 27 October 2022 for acceptance.

The report circulated with the agenda contains complete details in respect of the additional amendments to the structures of the Directorate: Financial Services and the Directorate: Civil Engineering Services.

With respect to the Directorate: Financial Services the amendments were necessitated by the risks identified during the external audit and new regulations applicable to the Supply Chain Management Processes as of 16 January 2023.

RESOLUTION

(proposed by clr N Smit, seconded by clr A K Warnick)

That Council confirm the resolution of 27 October 2022 with the inclusion of the aforementioned amendments, for implementation with effect from 1 January 2023.

8.6 APPROVAL OF THE DRAFT 4TH GENERATION INTEGRATED SOLID WASTE MANAGEMENT PLAN (16/4/B)

In accordance with the *National Environmental Management Waste Act (Act 59 of 2008)* – only available in English – the Council is obliged to have an Integrated Solid Waste Management Plan, which must be revised every five years.

The main purpose of the plan is the transformation of procedures in respect of the collection and disposal of solid waste and to establish sustainable practises taking into account the impact on the environment.

RESOLUTION

(proposed by ald T van Essen, seconded by clr R J Jooste)

That the draft 4th Generation IWMP for Swartland Municipality be approved by the Executive Mayoral Committee and recommended to Council for adoption.

8.7 FIRST CONCEPT: AMENDMENT TO THE SWARTLAND SPATIAL DEVELOPMENT FRAMEWORK, 2023-2028 (15/1/4/1)

The Municipal Manager stated that the revision of the Swartland Spatial Development Framework (SDF) runs concurrently with the new Integrated Development Framework (IDF) in order, inter alia, to bring the SDF in line with national, provincial government and the Swartland Municipality: Regulation in respect of Municipal Land Usage Planning.

The purpose of the SDF is to provide the necessary guidelines within the legislative framework in order for the spatial development in the municipal area to take place in a sustainable and acceptable manner.

The Municipal Manager urged the public, and specifically the ward councillors to attend the open days in order to ascertain for themselves the future spatial planning within the municipal area.

RESOLUTION

(proposed by clr D G Bess, seconded by clr J M de Beer)

- The Swartland Municipal Council take cognisance of the first draft of the amendment of the Swartland Spatial Development Framework;
- The Swartland Municipal Council to approve the publication of the "first draft" of the amendment of the Swartland Municipal Spatial Development Framework for public comment in terms of section 7(1)(b) of the By-Law;

- (c) The Municipality submit the "first draft" of the amendment of the Swartland Municipal Spatial Development Framework to the Provincial Minister for comment;
- (d) The commenting period will be the months of February and March 2023 with open days in the majority of towns of the Swartland as per schedule.

**SIGNED
SPEAKER**



The Oversight Report

Introduction

This circular aims to provide councillors with practical guidance in financial governance and to assist in maintaining oversight within the broader governance context.

It focuses on the oversight process that councils must follow when considering the annual report and how to deal with the *Oversight Report* by encouraging continuous improvement and promoting accountability to stakeholders.

Please read this circular in conjunction with the following circulars:

- MFMA Circular 11 - Annual Reporting Guidelines - 14 January 2005
- MFMA Circular 18 - New Accounting Standards - 23 June 2005
- MFMA Circular 28 - Budget Content and Format - 12 December 2005

Background

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, 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 or Committee	Community
Executive Mayor or Committee	Policy, budgets, outcomes, management of/oversight over municipal manager	Municipal Manager	Council
Municipal Manager	Outputs and implementation	The Administration	Executive Mayor or Committee
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 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 diagramme 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.

What is in an annual report?

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

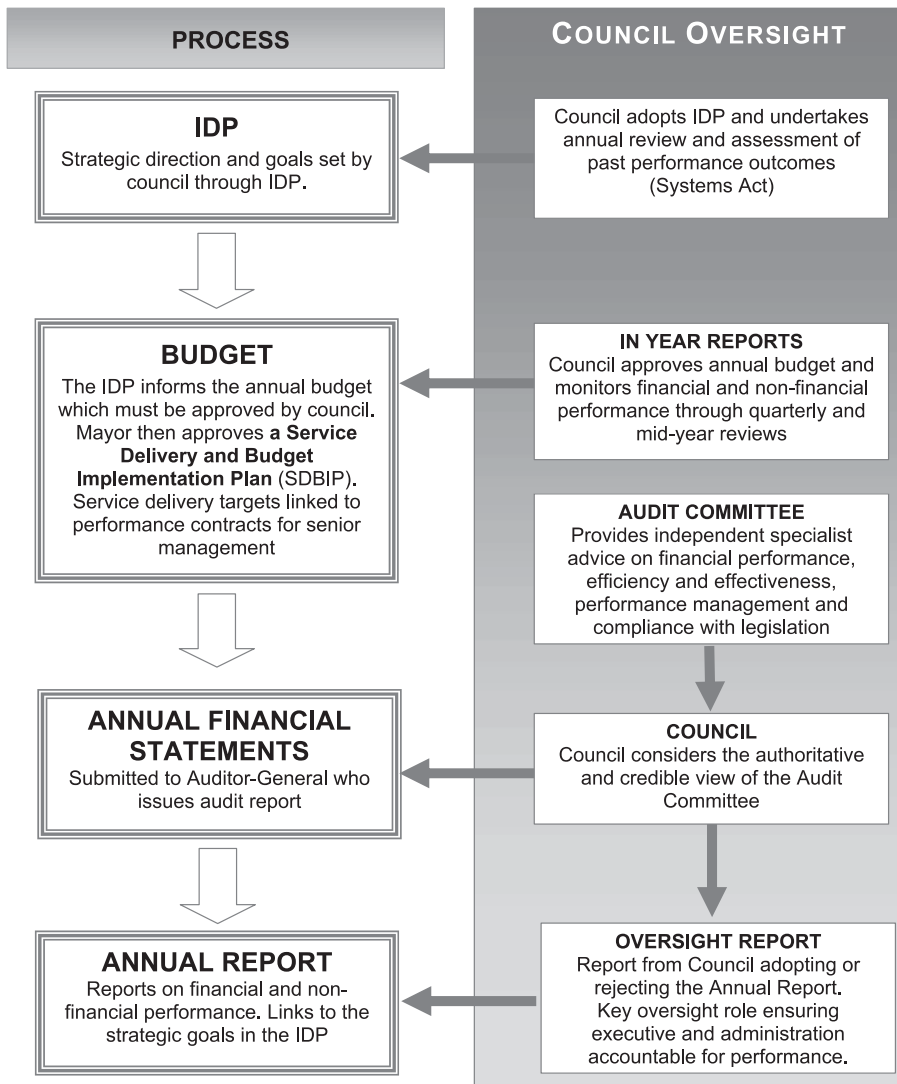
When tabled, the annual report should include four main components, each of which has an important function in promoting governance and accountability. The main components are:

- 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 MFMA section 121 and the MFMA Circular No 11 issued 14 January 2005.

Annexure C contains guidance on the matters that should be considered and lists the components of the annual report with a checklist of questions that might be asked by councillors when considering these components and the overall report.

Financial Governance in Practice – COUNCIL OVERSIGHT



What is the oversight report?

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 reports 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.

Annexure A sets out a recommended structure for an oversight report and draft resolutions to adopt the report.

Managing the process and forming committees

The processes for council oversight of the IDP, budget, annual report and preparing an oversight report may be complex for many councils, in particular where resources to support the functioning of the council are limited. For example, reviewing an annual report within full council meetings may not be practicable and may restrict the effectiveness of the analysis and discussions. Thus councils need to establish appropriate mechanisms to enable all councillors and the public to fully digest and discuss the annual report contents.

Once the annual report is tabled the council effectively has two months in which to consider the report, invite public submissions and to finalise its oversight report. Given there are a number of steps and many stakeholders the review can be made more manageable if a committee process is established breaking it down into more easily managed parts.

It is recommended that councils consider the establishment of an **oversight committee** under sections 33 and 79 of the Municipal Structures Act 1998. This committee and, if needed, sub-committees could 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. Such a committee may receive and review representations made by the public and also seek inputs from other councillors and council portfolio committees.

The oversight committee should be made up of only non-executive councillors and representatives of the community and can be formed each year to deal with the annual report. Municipal officials cannot be members of an oversight committee as this would pose a conflict of interest. Assistance from the municipality's Audit Committee in the review process is also recommended as a major source of independent specialist advice.

All meetings of Council and the oversight committee at which an annual report is considered must be open to the public and a reasonable time must be allowed for discussion of any written submissions received and for members of the community and organs of state to address the meetings. Representatives of the Auditor-General are entitled to attend and to speak at any meetings held to discuss the annual report. Timely notice of meetings should be given to enable representations to be made. Making representations to the oversight committee should not necessarily preclude

representations by the same individuals to the full council as this promotes transparency in the process.

At the same time that the committee is analysing the report in detail, other councillors should also be conducting their own review of the report. This can include discussions with constituents, ward committees and ward representatives to encourage inputs and comments and to prepare for the full council meeting that considers the annual report and oversight report.

Questions raised with the administration by council or the committee may be taken on notice by the accounting officer and responses subsequently provided to the committee process. Ideally however, questions should be responded to immediately during the committee meetings to avoid delays. The top management team may assist the accounting officer if needed. If the executive or the accounting officer and administration are unable to respond immediately to questions raised at committee or council meetings, then the committee or council may rightfully conclude that the executive and administration have not performed satisfactorily and may not understand the report that they have tabled.

When enquiring on matters in the annual reports from municipal entities, issues of commercial confidence may arise. In such cases the council should make a judgement as to whether the information is essential to determine a conclusion on the annual report and whether it may be necessary to meet in private. Such a step must be taken with caution in order not to weaken the democratic and transparency objectives of the annual reporting process.

Municipalities should take into account all costs of the various mechanisms (oversight committee and other meetings) for reviewing the annual report and preparing an oversight report. The cost needs to be balanced against the need for transparency, good governance practice and accountability, the capacity of the municipality and the need for an effective process within the time allowed.

Timing considerations

Annexure B provides the key steps in the annual reporting process as required by the MFMA. Note that no later than two months from the date of tabling, council must consider the annual report and adopt an oversight report. Also the annual report must be made public immediately after it is tabled and the public invited to submit representations. To assist with this process a municipal finance management "calendar" will be published in the near future.

Councils are encouraged to effectively use the time permitted under the MFMA (two months from when report tabled) for consideration in order to achieve a quality and acceptable annual report and strive for approval of a report that meets the provisions of the MFMA and MSA. Municipalities are encouraged to review the report immediately upon it being tabled so that steps to obtain additional information and amendments can be taken to facilitate completion of the oversight report within the timetable provided. The process for consideration may involve an initial review and analysis that seeks inputs from the community, Audit Committee and the administration, to be followed by a further review of the report, additional information and representations received. When any additional information is required the administration should promptly provide this.

The MFMA provides that if all the components of the annual report are not completed on time, then those components that are available must be tabled and considered and a written explanation be submitted to council as to why components are delayed and when they will be tabled. In such cases an oversight report may be completed and the report approved, but this should be with reservations or referred back for completion when the missing components are tabled, no more than two months later. In any case the components that have been tabled must be published and open for public representations and, where required, the oversight report amended when the remaining components are tabled.

Understanding the annual report and determining conclusions

A mechanism that facilitates better understanding of the annual report by **all** councillors is essential, as the MFMA requires that **Council, and not the executive or administration**, comment on the annual report and arrive at a decision.

To facilitate consideration of the annual report in its entirety the council should obtain the views of the Audit Committee, which is charged with providing council with, among other matters as prescribed, an authoritative and credible view of the financial position of the municipality or entity, its efficiency and effectiveness, performance management and the level of compliance with the MFMA, Division of Revenue Act (DORA) and other relevant legislation.

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. Approval means that the executive and administration have discharged in full, their accountability for decisions and actions and that their performance meets the criteria set by performance objectives and measures and is also acceptable to the community.

Should the Council have reservations on any matter in the report then these reservations should be outlined in the oversight report and the executive and administration should address these as determined by council.

A conclusion that the report is approved without reservations is the preferred outcome from the process. However, this conclusion should not be an outcome of only cursory examination of the report but should be as a result of a rigorous analysis by councillors with inputs from the public and other stakeholders.

Although the accounting officer is required to attend all meetings where the report is discussed to respond to questions, it is incumbent on **all councillors** to fully understand the report in order to identify matters that may require further information from the accounting officer.

Staff performance bonuses

To promote continuous improvement in the performance of the municipality and entities, it is strongly recommended that council reward performance in a manner that is commensurate with achievement of policy outcomes. Therefore, the payment of performance bonuses should be measurable with the extent of outcomes achieved. In some instances, performance bonuses were paid even though performance could not be measured. If the level of acceptance cannot be achieved then it follows that the performance of the administration has not met the objectives approved in the IDP, Budget and Service Delivery and Budget Implementation Plans. Where reservations exist, the seriousness of such should be taken into account before considering any part-payment of bonuses.

Municipal Entities

Where municipalities have one or more municipal entities, separate annual reports from the municipality and each of the entities will be tabled in council. Only the annual financial statements will be consolidated in the municipality report. Although each of the annual reports is to be considered by council it would be impractical to complete multiple oversight reports. It is recommended that council adopt one oversight report that provides comments on each of the annual reports. In this way council is able to reinforce the important linkages between the municipality and its entities, their close interrelationship in the provision of services and that performance of the municipality is an outcome of performance by the municipal administration and all the entities.

Conclusion

Municipalities and municipal entities are required to table in council by 31 January an annual report for the previous financial year. Councils must consider the reports and adopt an oversight report by 31 March. This circular outlines the importance of the annual report in ensuring effective democratic and accountable local government and provides guidance on the manner in which the reports should be considered.

The MFMA provides that the National Treasury may issue guidelines on the manner of consideration of annual reports and the functioning and composition of any public accounts or oversight committee. Until such guidelines are issued, councils and boards of entities are encouraged to consider and implement this circular.

The challenge facing councillors is to utilise their strategic plans, budget documents and annual reports to improve oversight and to hold municipal departments and entities and the executive to account for their performance.

Further enquiries on this circular may be directed to the MFMA helpline email address below.

Abbreviations

AFS	Annual Financial Statements
MFMA	Municipal Finance Management Act, No. 56, 2003
MSA	Municipal Systems Act, No. 32, 2000
SDBIP	Service Delivery and Budget Implementation Plans (s 53 MFMA)
DORA	Division of Revenue Act for the relevant budget year.
IDP	Integrated Development Plan

Other information relating to annual reporting for municipalities may be found in:

- MFMA Circulars 11 and 18.
- Performance Management Guide for Municipalities, DPLG, 2001.
www.dplg.gov.za – go to “documents” then “general publications”
- Introductory Guide to MFMA, Updated Edition – August 2004.
- On SDBIP, refer to MFMA Circulars 13 and 19.

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T. Pillay
Chief Director: Local Government
15 March 2006

ANNEXURE A

Structure and Contents of the Oversight Report –

The Oversight Report should contain:

1. Title and reference to the year under review.
2. Resolutions and statement required by MFMA s129(1) (see recommended resolutions below).
3. Summaries of comments and conclusions on the annual report of the **municipality** referred to in the resolutions, including one or more of the following:
 - (i) Summary of reservations, if approved with reservations and actions to be taken by the executive and administration to resolve reservations.
 - (ii) Summary of components required to be revised, if referred back for revision and actions to be taken by the executive and administration to provide revisions and the date for these to be submitted.
 - (iii) Summary of reasons for rejection of the report, if report is rejected and what other action should be taken by the executive and administration.
 - (iv) In cases where only components of the annual report are submitted by the mayor detail those components and restrict comments to this effect. Include a statement listing the outstanding components and estimated timeframe for these to be tabled and considered by council.
4. Summaries of comments and conclusions on the annual reports of **each municipal entity** referred to in the resolutions, including one or more of the following:
 - (i) Summary of reservations, if approved with reservations and actions to be taken by the executive and administration or the entity to resolve reservations.
 - (ii) Summary of components required to be revised, if referred back for revision and actions to be taken by the executive and administration or the entity to provide revisions and the date for these to be submitted.
 - (iii) Summary of reasons for rejection of the report, if report is rejected and what other action should be taken by the executive, administration and the entity.
 - (v) In cases where only components of the annual report are submitted by the chairman detail those components and restrict comments to this effect. Include a statement listing the outstanding components and estimated timeframe for these to be tabled and considered by the board of directors.
5. Annexures to the report should provide the following –
 - (i) Summary of the process followed in the review, including:
 - Copies of minutes of meetings of committee.
 - Summary of written representations submitted by the public, auditor-general and other spheres of government.
 - Responses to questions provided by the accounting officer.
 - (ii) Other information as may be needed to support the conclusions in the resolutions, for example, outcomes of large infrastructure / capital projects and programmes.

Resolutions and Statement

The statement required in the oversight report by section 129(1) of MFMA, should be in the form of a council resolution to record both the adoption of the oversight report and the comments of council on the report.

The resolutions should, as a minimum, state:

Council resolves that:

1. The Council having fully considered the annual report of the municipality and representations thereon, adopts the oversight report; and
2. *(insert one of the following as appropriate)*
 - Council approves the annual report without reservations; or
 - Council approves the annual report with reservations as included in the comments in the oversight report pages xx to xx; or
 - Council refers the annual report back for revisions of the components listed on pages xx to xx of the oversight report; or
 - Council rejects the annual report of the municipality for the reasons summarised in pages xx to xx of the oversight report.
3. *(Where further action or revisions are required in the resolutions):* Council requests the Mayor (Executive Mayor) to report to Council on the actions required as a result of these resolutions by <date to return to Council>.

Where the annual reports of municipal entities are also considered additional resolutions should be adopted to refer to the municipal entities –

Council resolves that :

1. The Council having fully considered the annual report of the municipal entity <name> and representations thereon, adopts the oversight report; and
2. *(insert one of the following as appropriate)*
 - Council approves the annual report without reservations; or
 - Council approves the annual report with reservations as included in the comments in the oversight report pages xx to xx; or
 - Council refers the annual report back for revisions of the components listed on pages xx to xx of the oversight report; or
 - Council rejects the annual report of the municipal entity <name> for the reasons summarised in pages xx to xx of the oversight report.
3. *(Where further action or revisions are required in the resolutions):* Council requests the municipal entity to report to Council on the actions required as a result of these resolutions by <date to return to Council>.

ANNEXURE B

Steps in the Annual Reporting processes

The following outlines the major steps in the annual reporting process indicating responsibilities and dates prescribed in the MFMA and MSA.

Prescribed Dates	Actions	MFMA (MSA)	Responsibility of
31 August	Submit municipality's AFS to Auditor-General	S126(1)(a)	Municipal Manager
31 August	Submit municipal entity AFS to parent municipality and to Auditor-General	S126(2)	Municipal Entity Accounting Officer
30 September	Submit consolidated AFS to Auditor-General (municipalities and entities)	S126(1)(b)	Municipal Manager
31 October and quarterly thereafter	Auditor-General submits to Parliament and the provincial legislature names of any municipalities, which have failed or continue to fail to submit AFS.	S133(2)	Auditor-General
Within three months of receiving AFS (30 November or 31 December)	Audit report returned to Municipal Manager	S126(3)	Auditor-General
On receipt of audit report	Municipality must address any issues raised by the Auditor-General and prepare action plans to address issues and include these in annual report. Provide copy of report to Audit Committee.	S131(1)	Municipal Manager. Mayor must ensure compliance by municipality
31 December	Entity submits annual report to Municipal Manager	S127(1)	Municipal Entity Accounting Officer
31 January	Annual Reports of municipality and entities tabled in Council	S127(2)	Mayor
Immediately after annual report is tabled	Annual report made public and local community invited to submit representations	S127(5)(a) (MSA) - S21A and B	Municipal Manager
Immediately after annual report is tabled	Annual report submitted to Auditor-General, relevant provincial treasury and provincial department responsible for local government in the province.	S127(5)(b)	Municipal Manager
When meetings held to discuss the annual report	Attend meetings to respond to questions concerning the report	S129(2)(a)	Accounting Officer of municipality and entity
Following meetings to discuss the annual report	Submit copies of minutes of the meetings to the Auditor-General, provincial treasury and provincial department responsible for local government	S129(2)(b)	Accounting Officer of municipality and entity
Within two months of report being tabled (31 March)	Council to have considered the annual report and adopted an oversight report	S129(1)	Council
Within seven days of adoption of oversight report	Make public the oversight report	S129(3) S21A-MSA	Accounting Officer
Within seven days of adoption of oversight report	Submit to the provincial legislature, the annual report of municipality and entities and the oversight reports on those annual reports.	S132(1) & (2)	Accounting Officer
As necessary	Monitor compliance with submission of reports to provincial legislature	S132(3)	MEC for local government in the province
Within 60 days of receiving annual reports	Report to provincial legislature any omissions by municipalities in addressing issues raised by the Auditor-General.	S131(2)	MEC for local government in the province
Annually	Report to Parliament on actions taken by MEC's for local government to address issues raised by Auditor-General on municipal and entity AFS	S134	Cabinet member responsible for local government
Notes:			
<ul style="list-style-type: none"> ▪ MFMA section 133 provides for consequences of non-compliance with provisions relating to the submission of AFS and tabling of annual reports. ▪ All dates shown are the latest permissible in terms of the applicable legislation, earlier compliance is preferable. 			

ANNEXURE C

Checklist for considering the annual report

The MFMA provides that the purpose of the annual report of a municipality or a municipal entity for each financial year is:

- to provide a record of activities;
- to provide a report on performance against the budget; and
- to promote accountability to the local community for decisions made throughout the year.

The MSA provides that an annual *performance report* must be prepared for each financial year to report on the performance of the municipality and each external service provider, compared with targets set for performance.

The annual report requirements are provided in Chapter 12 of the MFMA, sections 45 and 46 of the MSA and the annual Division of Revenue Act.

The following checklist summarises what must be included in the annual report and is designed to support and guide councillors and officials. It should be noted however, that this list is not exhaustive and from time to time other information requirements may be prescribed. Consideration must also be given to specific circumstances and conditions in which other questions may be appropriate. Councillors and officials are encouraged to make suggestions to enhance this checklist and send these to the National Treasury.

Council should verify that the required information is contained in the annual report and then consider the relevance and accuracy of information accordingly. The checklist provides guidance on how matters could be considered.

The oversight committee and the full council may use this checklist as a means to organise the report and to manage requests for additional information. The questions suggested may be used by all councillors to gain clarification on contents of reports and also to verify compliance with the MFMA and MSA. Responses to many of these questions should be provided by the accounting officer of the municipality and/or municipal entities.

Note that the views of the Audit Committee and the findings of the Auditor-General are primary sources of information to assist council in determining a decision on the annual report.

Information required to be included in annual reports	Council Considerations and Questions
<i>Financial Matters</i>	<i>Financial reporting matters to be considered</i>
The annual financial statements (AFS) for the municipality and, if applicable, consolidated statements (with all entities) as submitted to the Auditor-General	Where the municipality has sole or effective control of a municipal entity, consolidated financial statements are required. The AFS are to be in the form as required by the applicable accounting standards. MFMA Circular 18 with annexures, 23 June 2005, provides guidelines on the new accounting standards for municipalities. <i>Have the required standards been met – refer audit report and report of audit committee for views on this?</i>
	The above applies also to the AFS of municipal entities.
The Auditor-General's reports on the financial statements of the municipality and the entities	<i>Is the audit report included in the annual report as tabled? If not, when will the audit report be tabled? What are causes of the delays? What actions are being taken to expedite the report?</i>
	The above applies also to the AFS of municipal entities.
Any explanations that may be necessary to clarify issues in connection with the financial statements	The accounting standards require that notes accompany the statements to provide explanations of issues and matters reported. Refer also points below on information in notes to AFS. <i>Taking into consideration the audit report and the audit committee comments, is sufficient explanation of financial issues contained in the notes to the statements?</i>
	The above applies also to the AFS of municipal entities.
An assessment by the accounting officer on any arrears on municipal taxes and service charges, including municipal entities	<i>Has an adequate assessment been included? Is there sufficient explanation of the causes of the arrears and of actions to be taken to remedy the situation? Is any other action required to be taken?</i>
	The above applies also to the AFS of municipal entities.
Particulars of any corrective action taken or to be taken in response to issues raised in the audit reports	The conclusions of the annual audit may be either – <ul style="list-style-type: none"> ▪ an unqualified audit opinion with or without management issues, which means that the financial statements are acceptable; ▪ a qualified audit opinion setting out reasons for qualification, which means that certain issues need to be addressed before an unqualified opinion can be achieved; or ▪ the auditor will disclaim the statements and not offer an opinion. In this case there may be serious financial issues to be addressed. The objective of the municipality should be to achieve an unqualified audit opinion. <i>Taking into account the audit report, audit opinion and the views of the audit committee, council should consider:</i> <ul style="list-style-type: none"> ▪ <i>To what extent does the report indicate serious or minor financial issues?</i> ▪ <i>To what extent are the same issues repeated from previous audits?</i> ▪ <i>Is the action proposed considered to be adequate to effectively address the issues raised in the audit report?</i> ▪ <i>Has a schedule of action to be taken been included in the annual report, with appropriate due dates?</i> <p>Note that actions taken on audit issues are to be reported to the provincial legislature, the MECs for local government and finance to report on any omissions by municipalities in addressing issues. Council should confirm that the audit report has been forwarded to the MECs.</p>
	The above applies also to the AFS of municipal entities.

An assessment by the municipality's accounting officer of the municipality's performance against measurable performance objectives for revenue collection from each revenue source and for each vote in the approved budget	The budget of the municipality must contain measurable performance objectives for revenue from each source and for each vote in the budget, taking into account the IDP (MFMA s17(3)(b)). The accounting officer must include these objectives in the annual report and report on performance accordingly. <i>Has the performance met the expectations of council and the community?</i> <i>Have the objectives been met?</i> <i>What explanations have been provided for any non-achievement?</i> <i>What was the impact on the service delivery and expenditure objectives in the budget?</i> Council should comment and draw conclusions on performance and explanations provided.
An assessment by the municipal entity's accounting officer of the entity's performance against any measurable performance objectives set in terms of the service delivery agreement or other agreement between the entity and the municipality	Agreements between the municipality and its entities for service delivery are to include measurable performance objectives. This will include measures of services delivered to the community, financial targets, expenditure targets etc. The entity's annual report must include an assessment by the accounting officer, of performance against these objectives. In order to show the linkage between the entity and the municipality, the report of the municipality should also include the performance of entities. <i>Has the performance met the expectations of council and the community?</i> <i>Have the performance objectives been met?</i> <i>What explanations have been provided for any non-achievement?</i> <i>What was the impact on the service delivery and expenditure objectives in the budget?</i> Council should comment and draw conclusions on performance and explanations provided.
Any information as determined by the municipality, the entity or its parent municipality	Review any other information that has been included in regard to the AFS.
	The above applies also to the AFS of municipal entities.
Recommendations of the audit committee in relation to the AFS and audit reports of the municipality and its entities	<i>Have the recommendations of the audit committee in regard to the AFS been adequately addressed by the municipality and/or the entity?</i> <i>What actions need to be taken in terms of these recommendations?</i> Conclusions on these recommendations and the actions required should be incorporated in the oversight report.

Allocations received and made	Considerations
Allocations received by <u>and</u> made to the municipality	The report should disclose: <ul style="list-style-type: none"> ▪ Details of allocations received from another organ of state in the national or provincial sphere. ▪ Details of allocations received from a municipal, entity or another municipality. ▪ Details of allocations made to any other organ of state, another municipality or a municipal entity. ▪ Any other allocation made to the municipality under Section 214(1)(c) of the Constitution. <i>Have these allocations been received and made?</i> <i>Does the audit report confirm the correctness of the allocations received in terms of DORA and provincial budgets?</i> <i>Does the audit report or the audit committee recommend any action?</i> Council should comment and draw conclusions on information and explanations provided.

Allocations received by <u>and</u> made to the municipal entity	The report should disclose: <ul style="list-style-type: none"> ▪ Details of allocations received from any municipality or other organ of state. ▪ Details of any allocations made to a municipality or other organ of state. ▪ Other information as may be prescribed. <i>Have these allocations been received and made?</i> <i>Does the audit report confirm the correctness of the allocations received in terms of DORA and provincial budgets?</i> <i>Does the audit report or the audit committee recommend any action?</i> Council should comment and draw conclusions on information and explanations provided.
Information in relation to the use of allocations received	Section 123 of the MFMA and MFMA guidance circular 11, require that the municipality provide information per allocation received per vote and include: <ul style="list-style-type: none"> ▪ The current year and details of spending on all previous conditional grants, for the previous two financial years. Information is to be provided per vote. (For example, municipalities must report on all transfers received from provincial housing departments for housing subsidy grants for three financial years, and indicate how such funds were spent, and for what projects. ▪ Information stating whether the municipality has complied with the conditions of the grants, allocations in terms of section 214(1)(c) of the Constitution and allocations received from other than another organ of state. Where there is non-compliance, details of the reasons for non-compliance are to be provided. ▪ Information on whether allocations under the DORA were delayed or withheld and the reasons advanced for this. This information is required on all allocations excluding the municipality's portion of the equitable share and where prescribed otherwise by the nature of the allocation. The Auditor-General will ensure that the audit process includes a proper assessment (and reconciliation) on all national grants received by a municipality. Council should consider this aspect of the audit report and comments by the audit committee on the use of allocations received. <i>Council should be satisfied that –</i> <ul style="list-style-type: none"> ▪ <i>the information has been properly disclosed;</i> ▪ <i>conditions of allocations have been met; and</i> ▪ <i>that any explanations provided are acceptable.</i> The comments of the Auditor-General and the views of the audit committee should be used to determine the accuracy and appropriateness of this information.
Information in relation to outstanding debtors and creditors of the municipality and entities	Municipalities and entities are reminded of the requirement to include, in their annual financial statements, amounts owed to them and persistently delayed beyond 30 days, by national or provincial departments and public entities. It is also a requirement to report on whether the municipality or entity has met its statutory commitments, including the payment of taxes, audit fees, and contributions for pension and medical aid funds. <i>Council should be satisfied that –</i> <ul style="list-style-type: none"> ▪ <i>the information has been properly disclosed;</i> ▪ <i>conditions of allocations have been met; and</i> ▪ <i>also that any explanations provided are acceptable.</i> The comments of the Auditor-General and the views of the audit committee should be used to determine the accuracy and appropriateness of this information.

Disclosures in notes to AFS	Considerations relating to section 124
Information relating to benefits paid by municipality and entity to councillors, directors and officials	<p>Information on the following items is to be included in the notes to the annual report and AFS:</p> <ul style="list-style-type: none"> salaries, allowances and benefits of political office bearers, councillors and boards of directors, whether financial or in kind; any arrears owed by individual councillors to the municipality or entity for rates and services, which at any time were outstanding for more than 90 days, including the names of councillors; salaries allowances and benefits of the municipal manager, CEO of a municipal entity, CFO and every senior manager; contributions for pensions and medical aid; travel, motor car, accommodation, subsistence and other allowances; housing benefits and allowances; overtime payments; loans and advances, and; any other type of benefit or allowance related to staff. <p>Council should be satisfied that –</p> <ul style="list-style-type: none"> the information has been properly disclosed; conditions of allocations have been met; and that any explanations provided are acceptable. <p>The comments of the Auditor-General and the views of the audit committee should be used to determine the accuracy and appropriateness of this information.</p>

Municipal Performance	Considerations
The annual performance reports of the municipality and entities	<p>Section 46, MSA requires municipalities to submit a performance report reflecting the performance of the municipality and each service provider, a comparison of the performance with targets set for the previous year and measures taken to improve performance. The report must form part of the annual report. Questions that may be considered are –</p> <p><i>Has the performance report been included in the annual report?</i> <i>Have all the performance targets set in the budgets, SDBIP, service agreements etc, been included in the report?</i> <i>Does the performance evaluation in the annual report compare actual performance with targets expressed in the budgets and SDBIP approved for the financial year?</i> <i>In terms of key functions or services, how has each performed? Eg. have backlogs for water, sanitation and electricity been reduced? What are the refuse collection volumes, library usage statistics etc?</i> <i>To what extent has performance achieved targets set by council?</i> <i>Is the council satisfied with the performance levels achieved?</i> <i>Is the community satisfied with performance? Has a customer satisfaction survey been undertaken and, if so, how do the results align with the annual report contents? What were the outcomes of public consultation and public hearings?</i> <i>What actions have been taken and planned to improve performance?</i> <i>Is the council satisfied with actions to improve performance?</i> <i>Did the targets set in the budgets, SDBIP agree with the targets set in the performance contracts of the municipal manager and each senior manager?</i> <i>Does the report evaluate the efficiency of mechanisms applied to deliver the performance outcomes?</i> <i>Taking into account the audit report and opinion and the views of the audit committee, is performance considered to be efficient and effective?</i> <i>To what extent have actions planned for the previous year been carried over to the financial year reported upon?</i> <i>Have any actions planned in the reported year been carried over to the current or future years? If so are any explanations been provided by the municipal manager and are these satisfactory?</i></p>

	Council should comment and draw conclusions on information and explanations provided.
Audit reports on performance	<p>Section 45, MSA requires that the Auditor-General must audit the results of performance measurements, as part of the internal auditing processes and annually.</p> <p><i>Have the recommendations of internal audit been acted on during the financial year?</i> <i>Have recommendations by internal audit and/or the auditor-general been included in action plans to improve performance in the following year?</i></p>
Performance of municipal entities and municipal service providers	<p>The annual report of the municipality should provide an assessment of the performance of the municipal entities and all contracted service providers. This is in addition to the separate annual reports of the entities.</p> <p>The report should evaluate the effectiveness of these services and whether alternative mechanisms should be considered.</p> <p><i>Is the council satisfied with the evaluation and conclusions of the municipality?</i> <i>What other actions are considered necessary to be taken by the accounting officers?</i></p>
For municipal entities – an assessment of the entity's performance against any measurable performance objectives set in terms of the service delivery agreement or other agreement between the entity and municipality	<p>This is the separate report of the municipal entity and should contain details of service delivery agreements with the municipality and the performance measures therein.</p> <p>Council should consider similar issues to that outlined above for municipal performance to determine a view on the performance of municipal entities.</p> <p><i>To what extent were the objectives and performance measures of the entity aligned to the overall strategic objectives of the municipality and its IDP?</i> <i>Is the report of the municipal entity consistent with the conclusions on performance evaluation by the municipality?</i> <i>What specific actions should be taken by the entity and the municipality to improve performance?</i></p>

General information	The following general information is required to be disclosed in the annual report.
Relevant information on municipal entities	The municipality should disclose all information relating to the municipal entities under the sole or effective control of the municipality. Information to be disclosed includes names and types of entities, members of the board, addresses and contact details for entities, the purpose of the entity, the functions and services provided, the type and term of service level agreements with the entities.
The use of any donor funding support	<p><i>What donor funding has the municipality received?</i> <i>Have the purposes and the management agreements for the funding been properly agreed upon?</i> <i>Have the funds been used in accordance with agreements?</i> <i>Have the objectives been achieved?</i> <i>Has the use of funds been effective in improving services to the community?</i> <i>What actions need to be taken to improve utilisation of the funds?</i></p>
Agreements, contracts and projects under Private-Public-Partnerships	Information similar to the details of municipal entities should be provided. Council should ensure that all details have been supplied.
Service delivery performance on key services provided	<p>This may be a high level summary, in addition to detailed information on performance, which sets out overall performance under the strategic objectives of the municipality.</p> <p>Overall results on the strategic functions and services should be summarised.</p> <p>This should cover all services whether provided by the municipality,</p>

	<p>entities or external mechanisms.</p> <p>Council may draw conclusions on the overall performance of the municipality.</p> <p>This information may be found in an executive summary section of the annual report and or in statistical tables.</p>
Information on long-term contracts	<p>Details of all long-term contracts including levels of liability to the municipality should be included. Council should ensure all information is correctly supplied.</p>
Information technology and systems purchases and the effectiveness of these systems in the delivery of services and for ensuring compliance with statutory obligations	<p>Details of significant IT activities should be outlined indicating the effectiveness of the IT projects and the quality of IT services.</p> <p>Council should consider how effectively the IT services support and facilitate performance of the municipality and whether value for money has been obtained.</p> <p>Details of any future IT proposals should be summarised.</p> <p>Council should comment and draw conclusions on the information provided.</p>
Three year capital plan for addressing infrastructure backlogs in terms of the Municipal Infrastructure Grant (MIG) framework	<p>A summary of the long-term capital plans and how these address the backlogs of services in the municipality should be provided.</p> <p>This should include details of types and scale of backlogs, projected cost implications, strategies to address the backlogs and plans proposed and/or approved.</p> <p>The summary here should cross reference to the performance reports in the annual report and also will be highlighted in the coming budgets.</p> <p>Council should consider whether the plans appropriately address the backlogs and are consistent with the strategic policy directions of council and needs of the community.</p>
Other considerations recommended	
Timing of reports	<p><i>Was the report tabled in the time prescribed?</i></p> <p><i>Has a schedule for consideration of the report been adopted?</i></p>
Oversight committee or other mechanism	<p><i>What mechanisms have been put in place to prepare the oversight report?</i></p> <p><i>Has a schedule for its completion and tabling been adopted?</i></p>
Payment of performance bonuses to municipal officials	<p>Refer to Section 57 MSA as amended. Bonuses based on performance may be awarded to a municipal manager or a manager directly accountable to the municipal manager after the end of the financial year and only after an evaluation of performance and approval of such evaluation by the municipal council. Preferably such evaluation should be considered along with the annual report. The basis upon which performance is evaluated for payment of bonuses should be reconciled with the municipal performance reported in the annual report.</p> <p><i>Have bonuses been paid based on achievements of agreed outputs and after consideration of the annual report by council?</i></p> <p><i>If so has a proper evaluation of performance been undertaken?</i></p> <p><i>Was the evaluation approved by council?</i></p> <p><i>Does the performance evaluation align and reconcile with the performance reported in the annual report? If not, what reasons have been given for non-reporting of the basis of evaluation in the annual report?</i></p> <p><i>Are the payments justified in terms of performance reported in the annual report?</i></p> <p>Conclusions and comments on the evaluation and payment of performance bonuses of council should be included in the oversight report.</p>

Provincial Treasury
Kim Engel
Budget Office: Local Government
Kim.Engel@westerncape.gov.za | Tel: 021 483 8459

Reference: PTR 13/5/2

The Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

For attention: The Municipal Manager, Mr J Scholtz

PROVINCIAL TREASURY COMMENTS ON THE TABLED 2021/22 ANNUAL REPORT

1. INTRODUCTION

- a. MFMA section 121(1) states that every municipality and every municipal entity must for each financial year prepare an annual report. The council of a municipality must within nine months after the end of the financial year deal with the annual report of the municipality and of any municipal entity under the municipality's sole or shared control in accordance with section 129.
- b. MFMA sections 121(3) and (4) sets out the framework relating to the content of the annual reports for both municipalities and municipal entities.
- c. National Treasury has further introduced the annual report template and MFMA Circular No. MFMA Circular 63 aims to provide guidance to municipalities and municipal entities on the Annual Report format and its contents.
- d. The municipal council is then obliged to consider any views of the local community; the National Treasury, the relevant provincial treasury and any provincial or national organs of state or municipalities which made submissions on the Annual Report.

2. LEGISLATIVE COMPLIANCE

2.1 Conformance

The conformance assessment highlights compliance by Swartland Municipality with the Municipal Finance Management Act No. 56 of 2003 is as follows:

- a. The Municipality submitted the draft 2021/22 Annual Performance Report together with Annual Financial Statements (AFS) to the Auditor General by the 31st of August 2022 which is within the legislative deadline.
- b. The unaudited Annual Report was not tabled to Council at least two months after the end of the financial year in accordance with MFMA Circular 63.
- c. The Annual report was tabled to Council on 26 January 2023 which is within 7 months after the end of the financial year in accordance to MFMA section 127(2).
- d. The tabled Annual Report was placed on the website, in accordance with section 75 of the MFMA, i.e. within 5 days after being tabled in Council.
- e. The tabled Annual Report was made public, and the public was invited to comment on the Annual Report with a deadline of 01 March 2023.

2.2 Format and content of the Annual Report as per MFMA Circular 63

- a. The Annual Report complies with the Annual Report template as described in MFMA Circular 63. All chapters are included.
- b. Only the 'Environmental Protection' component has not been included as part of chapter 3.
- c. Most of the annexures have been included (appended) to the Annual Report.
- d. However, Appendix G, Reference to the Recommendations of the Municipal Performance and Risk Audit Committee for year ended 30 June 2022, is said to follow on next page, but is not included.
- e. The information (forms signed in June 2021 by Municipal Manager and Directors) for Appendix J: Disclosure of Financial Interest, is indicated to be available at the Municipal Managers office. Any changes in the nature of financial interests are indicated to be declared quarterly at management meetings and reported to the Speaker of the Council as required by law.

3. Chapter 3: Service Delivery Information and Performance

High Level Summary – Key Performance Areas

Strategic Goals (including General KPIs)	Number of targets in SDBIP/ adjusted SDBIP	Number of targets achieved	Number of targets not achieved	Percentage achieved
SO1: Improved quality of life for citizens	12	12	0	100%
SO2: Inclusive economic growth	2	2	0	100%
SO3: Quality and sustainable living environment	2	2	0	100%
SO4: Caring, competent and responsive institutions, organisations and business	13	11	2	85%
SO5: Sufficient, affordable and well-run services	12	12	0	100%
Total	41	39	2	95%

Comment on overall performance by Municipality in terms of Strategic Objectives

- The Municipality has done well to achieve a total of 39 targets (95 per cent) of its overall 41 targets.
- Where targets have not been met, the Municipality has provided comments/corrective measures to provide a better understanding for why the targets have not been achieved.
- The two missed targets were in respect of '% of people from employment equity target groups appointed' and the delay in completion of handover procedure to newly appointed Manager, Internal Audit, as the Manager Internal Audit's appointment was delayed.

Black Economic Empowerment

- In the notes to the AFS, the Municipality has made reference to B-BBEE Performance – '70. *BBBEE Performance - Information on compliance with the B-BBEE Act is included in the annual report under the section titled B-BBEE Compliance*'. The referenced section could however not be found in the report. The Municipality is requested to verify this and ensure that the referenced information is included in the report.

Auditor General findings and other findings

- The Audit findings for 2021/22 and 2020/21 are included in the Annual Report.
- The Municipality has for the 2021/22 financial year, achieved an Unqualified - Clean Audit Report from the Auditor General. This indicates that the AFS is free from any material misstatements.
- There were no material findings on the usefulness and reliability of the reported performance information for the selected objective in respect of Strategic Goal 5 – Sufficient, affordable and well-run services.
- The Municipality is commended for its efforts in attaining and maintaining a clean audit opinion.

4. CONCLUSION AND RECOMMENDATIONS

The Municipality is compliant with the legislative requirements as per MFMA Sections 75, 121 and 127. It is recommended that the Municipality incorporate the above-mentioned aspects (sections 2.2 and 3) in its finalisation of the annual report process.

In conclusion, the Municipality is reminded of its responsibility to finalise and adopt the Annual Report and the Oversight Report by no later than two months from the date on which the annual report was tabled before council in terms of section 127 of the MFMA.

Kind regards

A handwritten signature in black ink, appearing to read 'Nadia Rinquest', with a stylized flourish at the end.

MS NADIA RINQUEST

ACTING DIRECTOR: LOCAL GOVERNMENT BUDGET OFFICE

DATE: 24 February 2023



MINUTES OF A MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) MEETING HELD IN THE BANQUETING HALL, MALMESBURY ON THURSDAY, 9 MARCH 2023 AT 08:30

Present:

Cllr E C O'Kennedy (Chairperson) (joined virtually)
Ald M van Zyl
Cllr A M Booysen
Cllr C Daniels (joined at 08:55)
Cllr R J Jooste
Cllr I S le Minnie (joined virtually)
Cllr D C Pypers
Cllr A A Duda (joined virtually)

Office of the Auditor-General:

Mr J Frans (joined virtually)
Mr M Luthando (joined virtually)

Officials:

Municipal Manager, Mr J J Scholtz
Director: Corporate Services, Ms M S Terblanche
Director: Development Services, Ms J S Krieger
Director: Protection Services, Mr P A C Humphreys
Snr Manager: ICT-services, Mr J Pienaar (on behalf of Director: Electrical Engineering Services)
Snr Manager: Public Services, Mr J M S Spies (on behalf of Director: Civil Engineering Services)
Snr Manager: Internal Audit, Ms J Erasmus
Manager: Secretariat and Records Services, Ms N Brand

1. OPENING

The chairperson, Cllr E C O'Kennedy welcomed MPAC-members and officials and especially the members of the Office of the Auditor General, Mr J Frans and Mr M Luthando.

The Municipal Manager opened the meeting with scripture and prayer.

2. APOLOGIES

No apologies were received.

RESOLVED that

3. DEPUTATIONS/STATEMENTS AND COMMUNICATIONS/PRESENTATIONS

3.1 COMMUNICATION BY THE CHAIRPERSON: PERFORMANCE AND RISK AUDIT COMMITTEE

The chairperson stated that Mr de Jager confirmed on 7 March 2023 that the Performance and Risk Audit Committee, after studying the draft annual report and draft oversight report, concurred with the content of the reports.

3.2/...

3.2 PRESENTATION BY THE OFFICE OF THE AUDITOR GENERAL

The chairperson granted an opportunity to Mr J Frans from the Office of the Auditor General to do a presentation on die 2021/2022 audit finding.

Mr Frans gave an overview of the audit outcomes, the key focus areas of the audit and well as the emerging risks. The following risks were identified:

- (1) New pronouncements on the Standards of Generally Recognised Accounting Practice (GRAP);
- (2) New Preferential Procurement Regulations, 2022;
- (3) Local Government: Municipal Staff Regulations;
- (4) Audit findings on the annual performance report that may have an impact on the audit opinion in future.

The Municipal Manager complimented the Office of the Auditor General for the professional manner in which the external audit was conducted.

The Municipal Manager confirmed that all irregular expenditures were regularised in accordance with approved procedures and the newest financial statements reflects a zero balance.

4. MATTERS FOR DISCUSSION

4.1 DRAFT OVERSIGHT REPORT ON THE 2021/2022 ANNUAL REPORT

The chairperson requested the Municipal Manager to give an overview of the draft Oversight Report.

The Municipal Manager explained the timeframe in which the MPAC must make a recommendation to the Council on the final adoption of the 2021/2022 Annual Report, including the final Oversight Report.

The Municipal Manager referred to the comments received on the draft annual report, with reference to the audit opinion that Swartland Municipality received, namely a clean audit (unqualified with no material findings).

The Municipal Manager confirmed that no comments were received from either a member of public or member of council. The comments received from the Provincial Treasury are dealt with and the Municipal Manager emphasised the reasons why the Municipality cannot adhered to the requirement of MFMA Circular 63 to table the draft annual report to Council by 31 August, amongst others, that the draft annual report will become a public document with unreliable and unaudited information.

The Municipal Manager also referred to the evaluation of annual performance that was done by an appointed panel on 9 September 2022 resulting in the Municipal Manager qualifying for a 13% performance bonus for the 2021/2022 financial year.

Cllr C Daniels questioned the reason for the performance bonus be tabled to the MPAC? The Municipal Manager explained that the performance report as well as the result of the performance evaluation by the above panel were submitted to the Office of the Auditor General for audit purposes and therefore be recommended to Council.

The Director: Corporate Services referred to Performance Management and Development Policy which regulates the payment of performance bonuses and confirmed that it was amended recently to include the Director: Electrical Engineering Services who was appointed under the upper limit notice, similar to the Municipal Manager and qualifies for a performance bonus of up to 14%. The rest of the directors qualify for an annual salary increase as negotiated by the parties to the Bargaining Council.

The Director: Corporate Services explained the disparities resulting from implementing the upper limit notice and mentioned that the waiver application in respect of the Municipal Manager was submitted to COGTA on 9 July 2022 and no feedback was received to date.

Cllr Booysen confirmed that she concurred with the reports, but requested that Council should consider the impact of Covid-19 on households that is burdened by job and income losses, worsened by the ongoing loadshedding.

RESOLUTION

(proposed by Ald M van Zyl, seconded by Cllr I S le Minnie)

It is recommended to Council on 30 March 2023-

- (a) That Council, having considered the 2021/2022 Annual Report of Swartland Municipality, adopts the Oversight Report in terms of section 129 of the Municipal Finance Management Act;
- (b) That the 2021/2022 Annual Report of Swartland Municipality be approved without reservations, in terms of section 129 of the MFMA;
- (c) That the minutes of the meetings where the Annual Report was discussed, in the presence of the accounting officer (Municipal Manager) be submitted to the Auditor-General, the Provincial Treasury and the Western Cape Department for Local Government as attached to the report, in terms of section 129(2) of the MFMA;
- (d) That the 2021/2022 Oversight Report of Swartland Municipality be made public in terms of Section 129(3) of the MFMA and be submitted to the Western Cape Legislature in terms of Section 132(2) of the MFMA;
- (e) That, in acceptance of the Oversight Report, the payment of a performance bonus be approved by Council as per paragraph 3.1.2.

(sgd) E C O'KENNEDY
CHAIRPERSON



MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL HELD IN THE TOWN HALL, MALMESBURY ON THURSDAY, 30 MARCH 2023 AT 10:00

PRESENT:

Speaker, Ald M A Rangasamy
Executive Mayor, Ald J H Cleophas Deputy
Executive Mayor, Cllr J M de Beer

COUNCILLORS:

Bess, D G (DA)	Penxa, B J (ANC)
Booyesen, A M (VF*)	Pieters, C (ANC)
Daniels, C (DA)	Pypers, D C (DA)
Duda, A A (EFF)	Smit, N (DA)
Fortuin, C (ANC)	Soldaka, P E (ANC)
Jooste, R J (DA)	Stanley, B J (DA)
Le Minnie, I S (DA)	Van Essen, T (DA)
Ngozi, M (ANC)	Vermeulen, G (VF*)
O'Kennedy, E C (DA)	Warnick, A K (DA)

Officials:

Municipal Manager, Mr J J Scholtz
Director: Electrical Engineering Services, Mr T Möller
Director: Financial Services, Mr M A C Bolton
Director: Protection Services, Mr P A C Humphreys
Director: Civil Engineering Services, Mr L D Zikmann
Director: Corporate Services, Ms M S Terblanche
Director: Development Services, Ms J S Krieger
Manager: Secretarial and Records, Ms N Brand

1. OPENING

The Director: Protection Services opened the meeting with a scripture reading and a prayer at the request of the Speaker.

The Speaker welcomed the Executive Mayor, aldermen, alderladies, councillors, officials and members of the public.

The Speaker congratulated councillors who had celebrated birthdays recently.

2. APOLOGIES

Apologies received from Ald M van Zyl and Cllr J R Papier.

3. DEPUTATIONS/DECLARATIONS AND COMMUNICATIONS/SUBMISSIONS

3.1 CONDOLENCES WITH PASSING OF FORMER COUNCILLORS AND OFFICIAL

The Speaker voiced his sympathy on the passing of former councillors – Ms Valery McQuire, Mr Corrie McKrieling and Mr Ben Geel – and official, Mr Mathys Roy who worked at the Yzerfontein Caravan Park.
The Executive Mayor referred to the meritorious number of years service of the deceased councillors and official and requested a minute of silence whereafter candles are lit in remembrance of the deceased.

3.2 SICK LEAVE: MUNICIPAL MANAGER

The Speaker mentioned that the Municipal Manager will go for a knee replacement operation and will be on sick leave for ±6 weeks during which the Director: Development Services will serve as acting Municipal Manager.

3.3 INFORMATION SESSION FOR COUNCILLORS ON THE 2023 INTEGRATED DEVELOPMENT PLAN (IDP)

The Municipal Manager invited all councillors to an information session on the IDP to be held on Tuesday, 4 April 2023 at 14:00 where the content of the IDP will be studied in detail.

4. MINUTES FOR APPROVAL

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 26 JANUARY 2023

RESOLUTION

(proposed by Cllr A K Warnick, seconded by Cllr J M de Beer)

That the minutes of an Ordinary Council Meeting held on 26 January 2023 are approved and signed by the Speaker.

5. REPORTING IN RESPECT OF THE DECISION MAKING BY THE EXECUTIVE MAYOR

RESOLUTION

That note is taken of the decisions made by the Executive Mayor in accordance with his delegated authority in the following minutes:

5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 18 JANUARY 2023

5.2 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 15 FEBRUARY 2023
read in conjunction with

MINUTES OF A MEETING OF THE PORTFOLIOS COMMITTEE HELD ON 8 FEBRUARY 2023

6. REPORTING IN RESPECT OF THE DELEGATED DECISION MAKING BY THE MUNICIPAL MANAGER

RESOLUTION

That note is taken of the decisions made by the Municipal Manager in accordance with his delegated authority in the following minutes:

6.1 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 14 DECEMBER 2022

6.2 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 19 JANUARY 2023

6.3 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 26 JANUARY 2023

7. MATTERS ARISING FROM THE MINUTES

None

8. MATTERS FOR DISCUSSION

8.1 ADOPTION OF OVERSIGHT REPORT ON 2021/2022 ANNUAL REPORT (7/1/1/1)

The Draft Annual Report for the 2021/2022 financial year was submitted to the Council on 26 January 2023 in accordance with section 127 of the Municipal Finance Management

8.1/...

Act, 2003 after which the annual report was made available to the public and state authorities for comment.

The Municipal Public Accountability Committee, under the chairmanship of cllr E C O'Kennedy, met on the 9 March 2023 to consider comments received on the draft annual report in the drawing up of the 2021/2022 Oversight Report.

The 2021/2022 Oversight Report was brought to the vote by the Speaker and decided (in the absence of two councillors) with 20 votes in favour thereof, and two councillors abstaining.

RESOLUTION

(proposed by cllr E C O'Kennedy, seconded by aldd M van Zyl)

- That Council, having considered the 2021/2022 Annual Report of Swartland Municipality, adopts the Oversight Report in terms of section 129 of the Municipal Finance Management Act;
- That the 2021/2022 Annual Report of Swartland Municipality be approved without reservations, in terms of section 129 of the MFMA;
- That the minutes of the meetings where the Annual Report was discussed, in the presence of the accounting officer (Municipal Manager) be submitted to the Auditor-General, the Provincial Treasury and the Western Cape Department for Local Government as attached to the report, in terms of section 129(2) of the MFMA;
- That the 2021/2022 Oversight Report of Swartland Municipality be made public in terms of section 129(3) of the MFMA and be submitted to the Western Cape Legislature in terms of section 132(2) of the MFMA;
- That, in acceptance of the Oversight Report, the payment of a performance bonus be approved by Council as per paragraph 3.1.2 of the Oversight Report.

8.2 APPROVAL OF THE 2023/2023 SPECIAL ADJUSTMENT CAPITAL AND OPERATIONAL BUDGET (5/1/1/1, 5/1/1/2)

The 2022/2023 Special Adjustment Capital- and Operating Budget was considered by the Executive Mayoral Committee on 22 March 2023 for approval by Council.

The special adjustment budget is tabled in terms of section 28 of the MFMA, Act 56 of 2003 after an allocation of R10 945 000 was received from the Department of Local Government as a financial contribution to municipalities for the purchase and installation of back-up energy supply for water- and sanitation facilities to ensure basic service delivery and prevent potential health risks.

The Speaker thanked the Director: Civil Engineering Services for the thorough business plans submitted to ensure that Swartland Municipality received some of the highest allocations.

Cllr B J Penxa, with reference to the description of item 6 of the special adjustment budget, stated that the water tower in Wesbank is wrongly referred to, and that the latter should be amended to Ilinge Lethu.

The Speaker brought the matter to a vote and it is –

UNANIMOUSLY RESOLVED

(proposed by Cllr N Smit, seconded by Cllr A K Warnick)

- That approval be granted to amend the high-level capital and operating budget for 2022/2023 with no amendments to the outer years as follows:

8.2/...

	Original Budget 2022/23	Mid-Year Adj Budget 2022/23	Special Adj Budget 2022/23	Adjustments	Original Budget 2023/24	Original Budget 2024/25
Capital budget	191 095 805	167 894 804	178 839 804	10 945 000	195 834 903	165 690 722
Operating Expenditure	1 029 331 855	1 025 575 992	1 025 575 992	-	1 061 375 491	1 139 864 061
Operating Revenue	1 093 983 961	1 087 072 579	1 098 017 579	10 945 000	1 123 993 179	1 174 158 797
Budgeted (Surplus)/ Deficit	(64 652 106)	(61 496 587)	(72 441 587)	(10 945 000)	(62 617 688)	(34 294 736)
Less: Capital Grants & Contributions	77 109 000	67 945 510	78 890 510	10 945 000	73 351 000	35 935 000
(Surplus)/ Deficit	12 456 894	6 448 923	6 448 923	-	10 733 312	1 640 264

- That it be noted that the changes to the budget will have no impact on tariffs in respect of the 2022/2023 financial year or beyond and the budgeted net deficit of R6 448 923 will remain unchanged;
- That the adjusted budget schedules as required by the Budget and Reporting Regulations be approved as set out in **(Annexure B: Budget Report and B-Schedules 2022/23 – 2024/25)**;
- That the Director: Financial Services adhere to the requirements of the Budget Circulars and Budget Reforms in the context of the reporting requirements to Provincial and National Treasury;
- That the Service Delivery Budget Implementation Plan (SDBIP) where appropriate be amended accordingly.

8.3 2023 INTEGRATED DEVELOPMENT PLAN (2/1/4/4/1)

The Integrated Development Plan (IDP) is the Municipality's principal strategic plan that deals with the most critical development needs of the municipal area (external focus) as well as the most critical governance needs of the organisation (internal focus).

The 2023 IDP was drawn up in terms of the legislative requirements after a very thorough consultation process with role players from various sectors, ward committees and councillors.

The Speaker congratulated the Senior: Manager Strategic Services on the format of the IDP which makes the document easy to read and it is confirmed that the IDP, as well as the consultation process of the Swartland Municipality, is considered a best practice in the Province.

The Speaker brought the matter to vote and it is –

UNANIMOUSLY RESOLVED

(proposed by Cllr D G Bess, seconded by Cllr I S le Minnie)

- That the draft Integrated Development Plan (IDP) for the Swartland municipal area be accepted in principle in terms of Chapter 5 of the Municipal Systems Act No 32 of 2000 for the purposes of obtaining public inputs and comments;
- That the draft IDP be advertised for public inputs and comments during April 2023;
- That the draft IDP be submitted to Local Government, Provincial Treasury, National Treasury and the West Coast District Municipality;

8.3/...

- (d) That the IDP be submitted to the Mayoral Committee on 17 May 2023 for a recommendation and to Council on 25 May 2023 for final approval;
- (e) that the revision of the area plans be approved.

8.4 TABLING OF THE DRAFT MULTI YEAR CAPITAL AND OPERATING BUDGETS, AMENDED BUDGET POLICIES, PROPERTY RATES, TARIFFS AND OTHER CHARGES FOR 2023/2024, 2024/2025 AND 2025/2026 FOR SPECIFIC PURPOSES OF GIVING EFFECT TO PUBLIC PARTICIPATION (5/1/1/1, 5/1/2, 5/1/4)

The Executive Mayor tabled the draft Capital- and Operating Budgets for the 2023/2024, 2024/2025 and 2025/2026 financial years in terms of section 16(2) of the Local Government Act: Municipal Financial Management (Act 56 of 2003) (MFMA), as considered during the meeting of the Executive Mayoral Committee held on 22 March 2023.

The Executive Mayor expressed his concern that the excessive tariff increases by Eskom may have a negative impact on the community, especially equitable share households, and businesses in the Swartland municipal area.

The establish of ±2000 housing opportunities are planned in the Swartland municipal area, which means that bulk infrastructure of more than R30 000 000 million must be made available, which further has a major impact on future budgets.

Cllr B J Penxa requests, on behalf of the ANC, that the location of the swimming pool at the Wesbank Sports Grounds be reconsidered. The location is not considered central to the communities the facility will be serving, namely Wesbank, Saamstaan, llinge Lethu, Phola Park and the new De Hoop development. Cllr Penxa requested that the land adjacent to the Indoor Sports Centre be considered.

The aforesaid proposal is supported by Cllr A A Duda, on behalf of the EFF.

The Speaker brought the matter to a vote and Cllr Penxa confirmed that the vote in support of the draft multi-year budget is subject to the request that a more central location for the new swimming pool be considered. It is –

UNANIMOUSLY RESOLVED

(proposed by Ald J H Cleophas, seconded by Cllr J M de Beer)

- (a) That Council takes note that the costs as envisaged by section 19 (2)(a)(b) were derived after consultation with the respective director(s) who has confirmed the costs as per **(Annexure A: 2023/2024 – 2025/2026 Draft Budget and Tariff File)** and consider same;
- (b) That Council, prior to approving the capital projects above R50 million as listed in **(Annexure B: 2023/2024 – 2025/2026 Capital Projects ito Sec 19)**, first considers the projected cost covering all financial years until the project is operational and the future operational costs and revenue on the project, including municipal tax and tariff implications;
- (c) That Council deemed it appropriate to consider the entire capital program excluding the 3 contractually combined projects above R50 million as the aforementioned capital program's operational cost, inclusive of future costs will be covered by the rates regime and the normal cost centres found in the operational budget;
- (d) That the future capital budgets from year 3 be limited to 16.5% of the operating budget (based on NT's norm for *Capital Expenditure to Total Expenditure* that is between 10% to 20%) because of the upward pressure it has on the operating budget and the affordability of tariffs;

(e)/...

8.4/...

- (e) That Council considers the funding sources linked to council's capital program and take note that these funding sources are available and have not been committed for other purposes;

FINANCING SOURCES	Draft Budget 2023/2024	Draft Budget 2024/2025	Draft Budget 2025/2026
Capital Replacement Reserve (CRR)	R 99 051 292	R 103 813 866	R 117 124 689
Municipal Infrastructure Grant (MIG)	R 24 708 000	R 25 664 000	R 26 660 000
Dept. Human Settlements	R 55 314 000	R 64 890 000	R 30 000 000
Integrated National Electrification Programme (INEP)	R 23 658 000	R 25 000 000	R 35 000 000
RSEP	R 500 000	-	-
Contributions / Donations	R 1 224 943	-	-
Dept. Cultural Affairs and Sport	R 1 016 000	-	-
Community Safety Grant	R 40 000	R 40 000	-
Fire Service Capacity Building Grant	R 926 000	-	-
GRAND TOTAL	R 206 438 235	R 219 407 866	R 208 784 689

- (f) That Council approves the capital projects as part of its consolidated capital program as per **(Annexure A: 2023/2024 – 2025/2026 Draft Budget and Tariff File)**;
- (g) That Council in-principle approves the raising of an external loan to the amount of R50 million in year 2 of the new 2023/24 MTREF for the partial financing of the following capital projects: 132/11kV Eskom Schoonspruit Substation (R30 million) and the Development of Highlands New Landfill site Cell (R20 million), by means of testing the market as envisaged by MFMA section 46, requesting tenders from the financial institutions;
- (h) That the draft high-level multi-year Capital and Operating budgets in respect of the **2023/2024 – 2025/2026** financial years, be approved as draft, in accordance with sections 16, 17 and 19 of the MFMA to allow for public participation;

	Original Budget 2022/23	Mid-Year Adj Budget 2022/23	Draft Budget 2023/24	Draft Budget 2024/25	Draft Budget 2024/25
Capital budget	191 095 805	167 894 804	206 438 235	219 407 866	208 784 689
Operating Expenditure	1 029 331 855	1 025 575 992	1 104 199 609	1 214 888 188	1 421 514 611
Operating Revenue	1 093 983 961	1 087 072 579	1 227 697 725	1 341 922 499	1 525 223 633
Budgeted (Surplus)/ Deficit	(64 652 106)	(61 496 587)	(123 498 116)	(127 034 311)	(103 709 022)
Less: Capital Grants & Contributions	77 109 000	67 945 510	107 386 943	115 594 000	91 660 000
(Surplus)/ Deficit	12 456 894	6 448 923	(16 111 173)	(11 440 311)	(12 049 022)

- (i) That Council approves the notice given in terms of section 14(1) and (2) of the Local Government: Municipal Property Rates Act, 2004, to levy the draft property tax rates, exemptions and rebates on property reflected in the schedule below and in the property rates policy for the 2023/24 financial year with effect from 1 July 2023, for purposes of allowing for public participation;

Table/...

8.4/...

Category of property	Rate ratio	(c/R) rate determined for the relevant property category
Residential properties	1: 1	0,5956
Business and Commercial properties	1: 1,4586	0,8769
Industrial properties	1: 1,4586	0,8769
Agricultural properties	1: 0,25	0,1489
Mining properties	1: 1,4586	0,8769
Public Service Infrastructure	1: 0,25	0,1489
Properties owned by an organ of state and used for public service purposes	1: 1,4586	0,8769
Public Benefit Organizations	1: 0	0,0000
Vacant properties	1: 1,3470	0,8022
Municipal properties	1: 0	0,0000
Conservation Areas	1: 0	0,0000
Protected Areas	1: 0	0,0000
National Monuments	1: 0	0,0000
Informal Settlements	1: 0	0,0000

Exemptions and Reductions

- **Residential Properties:** For all residential properties, the municipality will not levy a rate on the first R15 000 of the property's market value. The R15 000 is the statutory impermissible rate as per section 17(1)(h) of the Municipal Property Rates Act.

Rebates in respect of a category of owners of property are as follows:

- **Indigent owners:** 100 per cent rebate will be granted to registered indigents in terms of the Indigent Policy to a maximum valuation of R105 000;
- **Qualifying senior citizens and disabled persons:** A rebate to an amount equal to the rates payable on the first amount of the valuation of such property to a limit of R300 000.

NB: Please refer to the municipality's property rates policy in respect of all rebates offered.

- (j) That Council approves the draft tariff structures and charges for water, refuse removal, sewerage and other sundry charges as set out in **(Annexure A: 2023/2024 – 2025/2026 Draft Budget and Tariff File)** for purposes of allowing for public participation;
- (k) That Council approves the electricity tariffs as draft for the 2023/2024 financial year, **bearing in mind that it is still subject to NERSA's final approval** and that Time of Use customers must note that the TOU slots are subject to change pending NERSA/Eskom's clarification;
- (l) That the annual budget tables as required by the Budget and Reporting Regulations be approved as set out in **(Annexure C: Budget Report and A-Schedules 2023/2024– 2025/2026)**;
- (m) That the **amendments** to the budget and related policies as set out in **(Annexure D: Draft Amendments to Budget & Related Policies 2023/2024)** hereto, be approved for purposes of soliciting the views and comment from the public;
- (n) That the training budget limited to **0,60%** of the salary budget in the amount of **R1 968 095** for the 2023/2024 financial year be approved as draft;
- (o) That Council takes note of the increases of the Directors that are contractually linked to the other personnel, which is negotiated and determined at a national level;

8.4(o)/...

- In respect of all personnel, an increase of **5.3%** for 2023/2024; **5%** for 2024/2025 and **5%** for the 2025/2026 financial years, excluding the increase in other benefits that are applicable and the annual 2.5% notch increase where applicable;
 - All salary adjustments are adequately budgeted for;
 - Provision has been made for a **3%** increase for political office bearers which is within the mid band of the inflation targets set by the South African Reserve Bank (SARB).
- (p) That Council takes note of the budgeted operating surpluses and that the budget is "cash-funded". The total expenditure growth of **7.7%** from the current to the new financial year and the revenue streams with growth in revenue of **12.9% (9.9% excluding capital grant income)** for the MTREF period as well as the cash flow statement as per **(A-schedule A7)** for the next three financial years;
- the budgeted risk factor for cash coverage for operating expenses are **9.8 months** for 2023/24, **9.2 months** for 2024/25 and **7.8 months** for the 2025/26 financial year (this can materially be impacted but not possible to determine scientifically at this stage);
 - over the next three financial years the planning is such that operating net surpluses are envisaged for 2023/24 to an amount of **R 16 111 173**, for 2024/25 an amount of **R 11 440 311** and for 2025/26 an amount of **R 12 049 022 (excluding capital grant income)**, which is well below the NT norm of at least a surplus of 10%.
- (q) That the Director: Financial Services adheres to the requirements of the Budget Circulars and Budget Reforms in the context of the reporting requirements to Provincial and National Treasury;
- (r) That Council also notes the content of the Provincial and National Treasury Budget Circulars as enclosed in **"Annexure E: Budget Circulars"**;
- (s) That Council takes note that the budget was prepared in the new mSCOA Version 6.7 as required by National Treasury;
- (t) That the process of soliciting public input, views or comments into the draft budget, **revised** budget and related policies (limited to the revisions from the previous year) and budget documents, inclusive of the property taxes and tariffs to close at 12 midday on **28 April 2023**.

8.5 DRAFT 2023/2024 SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) (2/4/2)

The Local Government: Municipal Finance Management Act, Act 56 of 2003 (MFMA) defines the Service Delivery and Budget Implementation Plan (SDBIP) as a detailed plan which the mayor of a municipality approves in accordance with section 53(1)(c)(ii) of the MFMA for implementing the municipality's service delivery and annual budget.

The aim of the SDBIP is to support the municipal management in attaining the service delivery goals, as well as the spending of the capital budget within given time frames.

RESOLUTION

- (a) That the Council takes cognisance of the draft 2023/2024 Service Delivery and Budget Implementation Plan (SDBIP) tabled in terms of regulation 14 of the Municipal Budget and Reporting Regulations;
- (b) That the SDBIP be submitted to National Treasury and Provincial Treasury in terms of regulation 15 of the Municipal Budget and Reporting Regulations.

8.6/...

8.6 CONTRACT HAVING FUTURE BUDGETARY IMPLICATIONS: ENTERING INTO A WATER SUPPLY AGREEMENT WITH THE DEPARTMENT OF WATER AND SANITATION: EXECUTION OF SECTION 33 OF MFMA (16/1/1/B)

During the drought in 2017 the Minister of Water and Sanitation Services requested to implement the Berg River, Voëlvlei Augmentation Scheme (BVRAS) project on a fast-tracked basis to assist in securing an additional source of water for the water users within the WCWSS to help alleviate drought impacts. The project entails the yielding of the Voëlvlei Dam by approximately 23 million m³/annum.

Swartland Municipality accordingly applied for an increased allocation from the BVRAS and confirmation was received that 1.66 million m³/year was allocated to the Municipality.

The next step is to enter into a Water Supply Agreement with the relevant department which has future budgetary implications for the Municipality and therefore section 33 of the MFMA becomes applicable.

RESOLUTION

(proposed by Ald T van Essen, seconded by Cllr R J Jooste)

- (a) That cognisance be taken of the increased allocation from the BRVAS from the initial 0.66 million m³/annum to 1.66 million m³/annum;
- (b) That it be noted further that in order to secure the allocation a Water Supply Agreement must be concluded with the Department of Water and Sanitation and that the Municipal Manager be authorised to sign the agreement, subject to certain conditions;
- (c) That it be noted further that the conclusion of the Water Supply Agreement will impose future financial obligations outside of the approved multi-year budget estimated at R7,088,000 per year at current year prices;
- (d) That it be noted further that the process as stipulated by section 33 of the MFMA will be followed.

**SIGNED
SPEAKER**