SUPPLEMENTARY AGENDA

SPECIAL COUNCIL MEETING

THURSDAY, 26 JUNE 2025

At 09:00

6. NEW MATTERS SUBMITTED BY THE MUNICIPAL MANAGER

6.8

SC08/06/25 MPAC: REPORT ON IRREGULAR EXPENDITURE: NEDBANK-PREFERENCE POINTS SYSTEM FOR EVALUATION OF LOAN FINANCE NOT INCLUDED IN TENDER DOCUMENTS

REPORT OF THE MUNICIPAL MANAGER

INTRODUCTION

The purpose of this report is to inform Council of the irregular expenditure as disclosed in the 2020/2021 and 2021/2022 Annual Financial Statements with the request that it be certified as irrecoverable and be written off as recommended by MPAC.

BACKGROUND

The MPAC at its meeting held on 14 June 2023 considered the irregular expenditure. This expenditure was recorded as irregular expenditure in the notes to the AFS in 2020/2021 and 2021/2022 financial years.

DISCUSSION

Nature of Expenditure

The municipality appointed Nedbank on T1 of 2020/2021 for the provision of loan finance as follows:
5 year loan of R8,310,140-00
10 year loan of R 63,499,225-00

The total value of the loan finance disclosed as irregular expenditure in the AFS 2021/2022 AFS were as follows:

2020/2021 R5,038,999-00
2021/2022 R6,335,851-00

Total R**11,374,850-00**

Reason for the Irregular Expenditure

The bid documents and advertisement for the bid did not specify the preference point system criteria that will be used in the evaluation of the tender.

This resulted in non-compliance;

Regulation 21(b) of the SCM Regulations provides as follows: "*A supply chain management policy must determine the criteria to which bid documentation for a competitive bidding process must comply, and state that in addition to regulation 13 the bid documentation must include evaluation and adjudication criteria, including any criteria required by other legislation.*"

Paragraph 21(1)(b) of the Knysna Municipality SCM Policy 2020/2021 states as follows;' "*The criteria, with which bid documentation for a competitive bidding process must comply, must include the preference points system used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including criteria required by other legislation."*
Financial loss

The payments, classified as Irregular Expenditure, were made in terms of the loan repayment schedules with Nedbank and therefore no financial loss was suffered. No other financial losses were suffered because of not using the preference point system, as Nedbank was the only bidder deemed responsive.

RELEVANT LEGISLATION

- Local Government: Municipal Finance Management act 56 of 2003.
- Municipal Systems Act 32 of 2000 (as amended).
- Municipal Public Accounts Committee's Terms of Reference.

RECOMMENDATION OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

[a] That, Council resolves that the irregular expenditure in the amount of R11,374,850-00 incurred be written off as irrecoverable, as the municipality did not suffer any financial loss;

[b] That Management implements adequate processes to ensure compliance with the SCM Regulations and the municipality's SCM Policy.

File Number: 9/1/2/14
Execution: Municipal Manager
CFO

6.9

SC09/06/25 MPAC REPORT ON MEETINGS HELD ON 7 APRIL, 5 MAY AND 19 MAY 2025

REPORT FROM THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT

The purpose of this report is to apprise and to report to Council on the MPAC meetings held on 7 April 2025; 5 May 2025 and 19 May 2025.

BACKGROUND

At the MPAC meetings held on 7 April 2025,5 May 2025 and 19 May 2025 the Committee considered and investigated the fruitless and wasteful expenditure incurred for the period July 2022 to May 2024

In terms of section 32(4) of the MFMA, the accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of

(a) any unauthorized, irregular, or fruitless and wasteful expenditure incurred by the municipality.

(b) Whether any person is responsible or under investigation for such unauthorized, irregular, or fruitless and wasteful expenditure; and

(c) The steps that has been taken :
   a. To recover or rectify such expenditure; and
   b. To prevent a recurrence of such expenditure

Definition of fruitless and wasteful expenditure

- Expenditure that was made in vain and would have been avoided had reasonable care been exercised.

DISCUSSION

During the 2022/2023 financial year and as declared in the annual financial statements, expenditure has been identified as fruitless and wasteful expenditure that must be submitted to a committee of council to investigate.

The fruitless and wasteful expenditure relates to interest on late payments, penalties on late payments, training cost and legal fees identified by Auditor General as fruitless and wasteful expenditure.

ANNEXURE A
No. 1

1	30/06/2023		08/08/2022	EFT 154694	R2,328.90	Late Payment of SARS PAYE due to technical challenges

The interest payment is due to a technical challenges and therefore could not have been avoided. SARS also charged a penalty fee, however the penalty was written off as a result of the municipality's request for write-off and motivation. No negligence could be established on the part of any official.

No. 2 - 5

2	30/06/2023		31/10/2022	EFT169643	R31.20	Penalties - Late MV Licence payment
3	30/06/2023		09/11/2022	EFT169811	R210.00	Penalties - Late MV Licence payment
4	30/06/2023		05/12/2022	EFT 174863	R224.40	Penalties - Late MV Licence payment
5	30/06/2023		20/01/2023	EFT 180375	R1,669.20	Penalties - Late MV Licence payment

This relates to penalties on late payment of motor vehicle licenses. Penalties were raised as a result of late submission by the user department to creditors for payment. By the time the documents were submitted to the creditors department, penalties had already been levied. MPAC, has investigated the reason for late submission and whether any officials should be held responsible.

No determination of negligence on the part of any official could be made.

No. 6

6	30/06/2023		26/04/2023	EFT 212086	R125,939.91	Penalty - Late submission

This relates to penalties levied due to late payment to the compensation fund. The late payment is as a result of the late submission by HR department to creditors for payment. After the HR Manager explained the process that was followed, the Committee deliberated and it was concluded that the expenditure was not incurred because of negligence on the part of any official.

No.7

7	18/11/2023		14/07/2023 _31/08/2023	EFT95173_EFT 105208	R281,750.00	Training Cost

Part of the training cost for the MMC was identified by Internal Audit as expenditure made in vain. In terms of the report, the manager HR indicated that instruction was given by the then Director Corporate to process the full payment, despite being informed that training services had not been rendered to certain staff members. Payment was made in respect of staff members who had not attended the training at all and other staff members who had not attended all the courses. After the explanation provided by the HR Manager and the current Director Corporate Services, the Chairperson indicated that the main issue at hand is the fact that the full amount was paid to the service provider despite the fact that not all the identified staff members participated in the training in question. The Chairperson further stated that the terms and conditions of the Service Level Agreement were not adhered to. The Committee was of the opinion that the fruitless and wasteful expenditure incurred must be recovered from the then Director Corporate Services in her personal capacity. The Committee found that the fruitless and wasteful expenditure was incurred due to the deliberate and/or negligent conduct of the then Director.

No. 8

8	2022/2023			Identfied by AG Comaf 71	R2,477,527.00	Legal Fees

The information will be submitted to the next MPAC meeting as more information needs to be gather to provide MPAC with more details.

No. 9

9	2022/2023			Identfied by AG Comaf 40	R27,962.67	Advertisements

The Committee resolved after deliberation that the amount in question be written off since no negligence or willful intent on the side of officials could be established.

It should be noted that the Committee could not consider and investigate the fruitless and wasteful expenditure pertaining to item No 8 above since two of the Committee members indicated that they have an interest in the matter. This matter will therefore stand over for consideration at a next meeting.

FINANCIAL IMPLICATIONS

The total fruitless and wasteful expenditure as per the register amounts to R2,917,643.28. See attached Annexure A.

RELEVANT LEGISLATION

In terms of section 32(4) of the MFMA.

RECOMMENDATION OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

[a] Item 1: That Council resolves that the fruitless and wasteful expenditure in the amount of R 2328.90 pertaining to the late payment of SARS be written off since the late payment was due to technical challenges that could not have been avoided.

[b] Items 2-5: That Council resolves that the fruitless and wasteful expenditure in the amount of R2134.80 pertaining to the late payments of motor vehicle licenses be written off.

[c] Item 6: That Council resolves that the fruitless and wasteful expenditure in the amount of R125,939.91 pertaining to penalties levied due to late payments to the compensation fund be written off since no evidence could be found of negligence on the part of officials.

[d] Item 7: That Council resolves to recover the fruitless and wasteful expenditure incurred in the amount of R281, 750.00 from the former Director Corporate Services due to gross negligence on the part of the Director in managing the Service Level Agreement. That the Municipal Manager be authorized to recover the fruitless and wasteful expenditure from the former Director Corporate Services.

[e] Item 9: That Council resolves that the fruitless and wasteful expenditure in the amount of R27, 962.67 pertaining to the re-advertisement cost be written off since no evidence suggest that the officials acted in a negligent manner.

File Number: 9/1/2/10
Execution: Municipal Manager
Director Financial Services

6.10

SC10/06/25 RECONSTITUTION OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC): REPLACEMENT OF CLLR ARENDS

REPORT OF THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT

To reconstitute the Municipal Public Accounts Committee (MPAC), due to the appointment of Cllr Arends as a Member of the Mayoral Committee.

BACKGROUND

The Executive Mayor appointed Cllr Russel Arends as the Chairperson of the Community Services Section 80 Committee. This appointment effectively terminated his membership to the MPAC Committee, and a new member must be elected to serve, subject to the following condition depicted in the Terms of Reference:

> *In terms of section 3.6 of the MPAC Terms of Reference the Committee shall consist of five (5) Councillors with knowledge of financial and/or governance matters.*

In order for MPAC to continue its business, an additional member needs to be appointed to MPAC in terms of Section 3.6.

Sections 3.6.1 and 3.6.2 of the MPAC terms of reference further provide that:

> *3.6.1 If the Chairperson is from the ruling coalition, three (3) members shall be from the opposition parties and two (2) shall be from the ruling coalition, or*
>
> *3.6.2 If the Chairperson is from the opposition parties, three (3) members shall be from the ruling coalition or ruling party and two (2) shall be from the other parties*.

These provisions impede on Council’s ability to comply with the terms of reference, as its pool of eligible Councilors in the ruling coalition to be appointed to MPAC is currently depleted. The terms of reference for MPAC is currently being reviewed, however, this process is still underway. It is therefore, recommended that Council resolves to remove this provision from the current terms of reference.

RECOMMENDATION OF THE MUNICIPAL MANAGER

[a] That Council resolves to remove Sections 3.6.1 and 3.6.2 from the Municipal Public Accounts Terms of Reference.

[b] That the report regarding the reconstitution of the MPAC be noted.

[c] That in terms of Section 3.6 of the MPAC Terms of Reference, Cllr ________________________ be appointed as an MPAC member.

APPENDIX / ADDENDUM

Annexure A - MPAC Terms of Reference

File Number: 9/1/2/14
Execution: Municipal Manager
Director: Corporate Services
Manager: Administration

7. Adjournment

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