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# MANTSOPA LOCAL MUNICIPALITY



Prepared in terms of the Local Government: Section 129 AND 132 of Municipal Finance Management Act (56/2003) by the Municipal Public Accounts Committee (MPAC)

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## 2022/2023 OVERSIGHT REPORT INCLUDING THE UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE



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## 1. PURPOSE

- 1.1 To consider the Municipality's Annual Report for 2022/2023 and to adopt the Oversight Report containing the Council's comments on the Annual Report in terms of the Local Government: Section 129(1) of the Municipal Finance Management Act, 56 of 2003 including the recommendations regarding MPAC's investigations on Unauthorised, Irregular, Fruitless and Wasteful expenditure emanating from the 2020/2021, 2021/2022 and 2022/2023 Annual reports, Audited Annual Financial Statements and findings of the Auditor-General South Africa.

## 2. PRE-DETERMINED OBJECTIVES

- 2.1 Striving towards a secure and sustainable management of fiscal and financial affairs of the municipality with the limited resources.

## 3. PART A: 2022/2023 OVERSIGHT REPORT ON THE DRAFT ANNUAL REPORT

### 3.1 BACKGROUND AND CONTEXT

The 2022/2023 Annual Report inclusive of the Annual Financial Statements of Mantsopa Local Municipality was prepared in terms of Local Government: Section 121 of the Municipal Finance Management Act No.56 of 2003 and Section 46 of the Municipal Systems Act, 32 of 2000, it was subsequently submitted by the Accounting Officer to the Auditor-General for audit as prescribed in terms of the Local Government: Section 126 of the Municipal Finance Management, Act 56 of 2003 on 31 August 2023.

The 2022/2023 Annual Report, the Auditor-General's report and the audited Annual Financial Statements were tabled at a Special Council meeting held on 31 January 2023, thereafter members of the public were given 21 days to submit written inputs, the invitation to make inputs were made through the public notices and website, furthermore, all Councillors were given seven days to make written representations, no inputs were received.

### 3.2 MPAC LEGISLATIVE PROCESSES

The 2022/2023 Annual Report, Annual Financial Statements and Report of the Auditor-General were discussed by the MPAC on Tuesday, 11 June 2024 as prescribed in terms of Section 129 (a), (b) & (c) of the Municipal Finance Management Act, 56 of 2003, however, the MPAC resolved that the investigations on Unauthorised, Irregular, Fruitless & Wasteful expenditure be conducted so that its recommendations should be included in the Oversight Report.

The MPAC satisfied itself that the 2022/2013 Annual Report was prepared in terms of the **Local Government: Section 121 of the Municipal Finance Management Act, 56 of 2003**, such was demonstrated in the six prescribed chapters as prescribed in the MFMA Circular 63, namely; **Chapter 1: Foreword & Executive Summary; Chapter 2: Governance; Chapter 3: Service Delivery Performance; Chapter 4: Organisational Development Performance; Chapter 5: Financial Performance (Annual Financial Statements) ; and Chapter 6. Report of the Auditor-General South Africa.**

In terms of the **Local Government: Section 129(1) of the Municipal Finance Management Act, 56 of 2003**- The Council of a municipality must consider the Annual Report of the Municipality and of any Municipal Entity under the municipality's sole or shared control, and by no later than two months for the date on which the Annual Report was tabled in the Council in terms of Section 127, adopt an Oversight Report containing the Council's comments on the Annual Report, which must include a statement whether the Council-

- (a) Has approved the Annual Report with or without reservations;*
- (b) Has rejected the Annual Report; or*
- (c) Has referred the Annual Report back for revision of those components that can be revised.*

In the circumstances, also backed by the findings of the Auditor-General, it is inescapable that the Annual Report for the period ending 30 June 2023 satisfies the requirements set out in Section 129(1)(a) of the Municipal Finance Management Act, 56 of 2003.

### **3.3 MPAC RECOMMENDATIONS REGARDING THE 2022/2023 DRAFT ANNUAL REPORT**

Having considered the 2022/2023 Draft Annual Report including the representations by Management, the **MPAC hereby recommend** as follows:

- (a) That the 2022/2023 Draft Annual Report be approved without reservations;
- (b) That the progress report regarding the implementation of the Audit Action Plan be tabled at the MPAC meetings monthly to enable the MPAC to detect early signs of internal control deficiencies and effect the necessary remedies to prevent recurrence.
- (c) That the 2022/2023 Oversight Report be submitted to the Free State Legislature, the MEC responsible for Local Government and MEC for Provincial Treasury as prescribed in terms of Section 132(2) of the Municipal Finance Management Act, 56 2003.
- (d) That the 2022/2023 Oversight Report be submitted to Thabo Mofutsanyana District Municipality and be published immediately for public consumption.

## **4. PART 2: INVESTIGATIONS REGARDING THE UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE**

### **4.1 INTRODUCTION**

The Auditor-General's findings regarding the Unauthorised, Irregular, Fruitless and Wasteful expenditure during the 2022/2023 financial year including prior years can be summarised as follows:

#### **(a) IRREGULAR EXPENDITURE**

The municipality incurred irregular expenditure of R5 021 275 (2022: R5 330 002) as disclosed in note 47 to the financial statements due to contravention of the Supply Chain Management requirements.

#### **(b) UNAUTHORISED EXPENDITURE**

The municipality incurred unauthorised expenditure of R35 206 962 (2022: R125 285 065) as disclosed in note 45 to financial statements the due to the overspending of the Budget.

#### **(c) FRUITLESS AND WASTEFUL EXPENDITURE**

The municipality incurred fruitless and wasteful expenditure of R17 082 738 (2022: R9 490 035) as disclosed in note 43 due to interest charged on late payments to suppliers.

#### 4.2 MPAC INVESTIGATIONS ON UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE FOR 2022/2023 AN PRIOR YEARS.

The MPAC sought the expertise of the Municipal Internal Audit (Mr KJ Chauke) and the Free State Provincial Treasury to assist on procedural aspects of the investigations, OPMS Division (Mr D.E Nana) also provided general strategic support in the work of the MPAC in this regard.

#### 5. PROCESS TO BE FOLLOWED WHEN DEALING WITH IRREGULAR EXPENDITURE

In terms of the National Treasury Guidelines regarding the process to be followed when dealing with Irregular Expenditure, the following should be strictly adhered to:

- (a) All cases of irregular expenditure must be referred to MPAC for investigation. MPAC must, after investigation, make a recommendation to Council for the *recovery* or *write off* of the irregular expenditure in terms of the Local Government: Section 32 (2) (b) of the Municipal Finance Management Act, 56 of 2003.
- (b) In terms of Section 170 of the MFMA, only the National Treasury may condone non-compliance with the MFMA or its regulations, therefore, Mantsopa Local Municipality has no power to *condone* any act of non-compliance with the MFMA or any of its regulations.
- (c) The Council may, after investigation and recommendation by MPAC, only resolve to "write off" the expenditure as irrecoverable or resolve to recover the expenditure" in terms of Section 32(2)(b) of the MFMA.
- (d) Council may only condone a contravention of its own SCM policy or a by-law giving effect to that policy, provided that the contravention is not also a contravention of the MFMA or the SCM regulation.
- (e) Irregular expenditure resulting from a contravention of the Public Office Bearers Act cannot be written off and must be recovered from the Political Office Bearer concerned, in terms of Section 167(2) of the MFMA.

#### 6. RECOGNITION OF IRREGULAR EXPENDITURE

- (a) The recognition of irregular expenditure must be linked to a financial transaction.
- (b) Although a transaction or an event may trigger irregular expenditure, the Council will only identify irregular expenditure when a payment is made or when the invoice is received in terms of GRAP 1.
- (c) If the possibility of irregular expenditure is determined prior to a payment being made, the transgression shall be regarded as a matter of non-compliance.

#### 7. RECOVERY OF UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

1. The processes to respond appropriately to prohibited expenditure are as follows:
  - a. Disciplinary charges against Officials and Political Office Bearers;
  - b. Criminal charges against Officials and Political Office Bearers;
  - c. Recovery of the Fruitless and Wasteful expenditure from liable persons.
2. The *writing -off* of prohibited expenditure is not a *primary response*, it is *subordinate* to the recovery processes, and may only take place if the expenditure is certified by Council as irrecoverable.

If the actions were in the best interest of the municipality and the local community, or the official(s) and or political office bearer acted in good faith and finally if the municipality did not suffer material loss as a result of the action, Council may write off such irregular expenditure following a substantive recommendation from the MPAC.

## **8. INVESTIGATION PROCESS: 2022/2023 UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE INCLUDING PRIOR YEARS**

On Tuesday, 11 June 2024 at 10H00, Manyatseng Council Chambers, the MPAC held a closed session to thoroughly discuss the 2022/2023 Annual Report, Audited Financial Statements and Report of the Auditor General South Africa.

After a fruitful meeting, the MPAC resolved that a thorough investigation on Irregular Expenditure had to be conducted, this included submission of documents, hearing/interview with affected and implicated officials to prevent recurrence.

On Wednesday, 12 June 2024 a hearing was conducted with implicated officials for incurring Unauthorised, Irregular, Fruitless & Wasteful Expenditure during 2022/2023 and prior years, such officials included the Municipal Manager as an Accounting Officer, Ms Matiro Mogopodi, Chief Financial Officer, Mr Takalani Tshikundu, Director Community Services, Ms Motselisi Lesoetsa, Manager: Supply Chain Management & Expenditure Mr Khotso Pharoe, Manager: Revenue Management, Mr Teboho Chaka, Manager: Water & Sanitation, Mr Sam Moeti.

The above-mentioned officials were probed on their role in incurring the Unauthorised, Irregular, Fruitless & Wasteful Expenditure, explanation was given, and others submitted documentations in support of their representations.

### **8.1 2020/2021 IRREGULAR EXPENDITURE, The MPAC investigations in this regard found as follows:**

Municipal Public Account committee would also like to bring to the attention of the municipal council that there were however many control weaknesses identified as a result expenditure items.

**Please refer to attached schedule for record of work done and recommendations per case.**

- (A) R1 980 150,66** was classified as irregular expenditure due to the fact that no declaration of interest received from service providers, and it was identified by Auditor General South Africa however through supporting documentation it was confirmed that declarations were attached. Therefore, recommended for written off by the municipality council.
- (B) R3 480 183,31** was classified as irregular expenditure because competitive Bidding Municipal Rates and Taxes in arrears for more than 90 Days however through supporting documentation rates and Taxes were not in arrears for more than 90 Days.
- (C) R117 660** was classified as irregular expenditure as there was only one quotation obtained instead of three quotations and deviation were attached explaining the reason for one quotation therefore recommended for written off by the municipally council
- (D) R3 054 390,03** was classified as irregular expenditure due to non-compliance of requirements of acceptable Bid and there was disagreement between Management and AG regarding panel appointment.

In view of the above-mentioned legislative obligation to the Accounting Officer and Management, the MPAC recommends as follows:

- (a) That an amount of R8 632 384 be written off by council.*
- (b) That Accounting officer should ensure adherence to regulations to avoid recurrences of these cases in future.*
- (c) That the Document management and internal control instruments to be put in place in the Municipality.*
- (d) That Management must revisit the registers for completeness as there are discrepancies between the registers and Audited AFS.*

#### **8.2 ON 2021/2022 IRREGULAR EXPENDITURE**

The MPAC investigations in this regard found as follows:

Municipal Public Account committee would also like to bring to the attention of the municipal council that there were however many control weaknesses identified as a result expenditure items.

- (a) R463 407,50 was classified as irregular expenditure due to tax status not compliant.**
- (b) R3 457 207,69 was classified as irregular expenditure due to invalid deviations.**
- (c) R418 334 was classified as irregular expenditure due to reasons for deviations were not reasonable.**
- (d) R715 052,20 was classified as irregular expenditure because the appointments amount exceeded threshold for quotations.**
- (e) R276 000 was classified as irregular expenditure due to the SCM processes not being followed to the latter**

Having considered the Management representations, the MPAC recommends as follows:

- (i) That R5 054 001.39 classified as irregular expenditure be written off.*
- (ii) That the Accounting officer must ensure adherence to regulations to avoid recurrences of these cases through approval of standard operating procedures.*
- (iii) That the conduct of implicated officials regarding the appointment of Kgolo Institute as a service provider on studies provided by Regenesys College be referred to the DC Board for processing.*
- (iv) That the municipality revisit the registers for completeness as there are discrepancies between the registers and Audited AFS*
- (v) That internal control instruments and Document management to be put in place to prevent recurrence.*

### 8.3 ON 2022/2023 IRREGULAR EXPENDITURE

The MPAC investigations in this regard found as follows:

Municipal Public Account committee would also like to bring to the attention of the municipal council that there were however many control weaknesses identified as a result expenditure items.

*(a) R4 985 361.30 was classified as irregular expenditure due to the reasons for deviations does not meet the definition of emergency. therefore, invalid deviations were noted.*

*(b) R33 463,20 was classified as irregular expenditure due to No Evaluation Report d.*

*(c) R2 450 was classified as irregular expenditure because The Supplier is not registered.*

Having considered the Management representations, the MPAC recommends as follows:

*(i) That R5 021 275.00 classified as irregular expenditure be written off.*

*(ii) That the conduct of implicated officials regarding the appointment of Zalisile Msebenzi Civils as a service provider for Manyatseng Sewer Outfall Works be referred to the DC Board for processing.*

*(i) That the municipality revisit the registers for completeness as there are discrepancies between the registers and Audited AFS*

*(ii) That internal control instruments and Document management to be put in place to prevent recurrence.*

### 9. ON 2020/2021 UNAUTHORISED EXPENDITURE

In considering the authorisation of unauthorised expenditure, Council must consider the following:

- (a) "Has it been established whether the Accounting Officer or Official or Public Office Bearer that made, permitted or authorised the unauthorised expenditure as per section 32(3) of the MFMA"
- (b) Are there good grounds shown as to why an unauthorised expenditure should be authorised including whether the actions were in the best interest of the Municipality?
- (c) Actions were in good faith when making or permitting unauthorised expenditure?
- (d) The municipality has not suffered any material loss as a result of the action.

The MPAC investigations in this regard found as follows:

(A) The results of our investigation indicate that in many areas Unauthorised expenditure is as a result of the overspending of the total amount appropriated in the municipality's approved budget; (The R182 819 770) excess of actual expenditure over the budget does not entirely represent actual unauthorised expenditure transactions, included are amongst others non-cash items such as depreciation, provision for bad debts and loss on disposal of asset which are either posted at year end in trial balance for accounting corrections or normal accounting entries and contributes to material differences between budget and actuals.) further reasons are provided for incurring this unauthorised expenditure as per the table below.

Description	Original Total Budget	Budget Adjustments	Final Budget	Actual Outcome	Variance	Difference %
	R	R	R	R	R	
Personnel	-110,211,831.00	-	-110,211,831.00	-103,578,097.00	-6,633,734.00	6%
Remuneration of councillors	-7,754,262.00	-	-7,754,262.00	-7,047,120.00	-707,142.00	9%
Depreciation and amortisation	-5,325,200.00	-	-5,325,200.00	-38,570,319.00	-33,245,119.00	624%
Finance costs	-8,220,001.00	-	-8,220,001.00	-8,781,603.00	-561,602.00	7%
Debt Impairment	-46,434,802.00	-8,209,000.00	-54,643,802.00	-106,487,876.00	-51,844,074.00	95%
Impairment loss	-	-	-	-10,084,433.00	-10,084,433.00	0%
Repairs and maintenance	-	-	-	-9,851,392.00	-9,851,392.00	0%
Other materials	-5,844,238.00	-2,120,000.00	-7,964,238.00	-	-7,964,238.00	100%
Bulk purchases	-50,084,908.00	-	-50,084,908.00	-51,436,638.00	-1,351,730.00	3%
Contracted Services	-17,045,581.00	-2,700,000.00	-19,745,581.00	-	-19,745,581.00	100%
Transfers and Subsidies	-50,000.00	-	-50,000.00	-	50,000.00	-100%
General Expenses	-36,222,213.00	-1,000,000.00	-37,222,213.00	-51,529,543.00	-14,307,330.00	38%
Actuarial gains/losses	-	-	-	-	3,954,516.00	0%
Accumulated Surplus	-	-	-	-22,618,878.73	-22,618,878.73	0%
<b>Total expenditure</b>	<b>-287,193,036.00</b>	<b>-14,029,000.00</b>	<b>-301,222,036.00</b>	<b>-409,985,899.73</b>	<b>-182,819,769.73</b>	

10.1.1 Having considered the Management representations, the MPAC recommends as follows:

- (i) That the amount of R 182 819 770 classified as unauthorised expenditure incurred be written-off;
- (ii) Management should ensure that unauthorised expenditure is done through budget adjustments after Mid Year Budget & Performance Assessments performed in accordance with Section 72 of the MFMA.

#### 9.1 ON 2021/2022 UNAUTHORISED EXPENDITURE

The results of our investigation indicate that in many areas Unauthorised expenditure is as a result of the overspending of the total amount appropriated in the municipality's approved budget; (The R121 340 728) excess of actual expenditure over the budget does not entirely represent actual unauthorised expenditure transactions, included are amongst others non-cash items such as depreciation, provision for bad debts and loss on disposal of asset which are either posted at year end in trial balance for accounting corrections or normal accounting entries and contributes to material differences between budget and actuals.) further reasons are provided for incurring this unauthorised expenditure as per the table below.

Description	Original Total Budget	Budget Adjustments	Final Budget	Actual Outcome	Variance
	R	R	R	R	R
Personnel	(120,667,103)		(120,667,093)	(109,913,991)	- 10,753,102.00
Remuneration of councillors	(12,168,434)	-	(12,168,434)	(7,721,907)	- 4,446,527.00
Depreciation and amortization	(5,532,883)	184,000	(5,348,883)	(37,272,335)	- 31,923,452.00
Impairment loss/ Reversal of impairments	- (8,540,582)	- -	- (8,540,582)	6,918,203 (17,038,144)	- 15,415,765.00
Finance costs					
Debt Impairment	(55,000,000)	2,200,000	(52,800,000)	(108,211,609)	- 55,411,609.00
Bulk purchases	(55,000,000)	-	(55,000,000)	(61,597,647)	- 6,597,647.00
Transfers and subsidies	(50,000)	-	(50,000)	-	50,000.00

General expenses	(30,647,680)	(465,000)	<b>(31,112,680)</b>	(29,827,257)	<b>1,285,423.00</b>
Other materials	(8,699,859)	(1,022,018)	<b>(9,721,877)</b>	(10,664,103)	- <b>942,226.00</b>
Contracted services	(16,581,431)	2,986,129	<b>(13,595,302)</b>	-	<b>13,595,302.00</b>
Accumulated Surplus	0	0	<b>0</b>	-10781125	- <b>10,781,125.00</b>
<b>Total expenditure</b>	<b>(312,887,972)</b>	<b>3,883,121</b>	<b>(309,004,851)</b>	<b>(375,328,790)</b>	- <b>121,340,728.00</b>

**10.1.1** Having considered the Management representations, the MPAC recommends as follows:

- (iii) That the amount of R 121 340 728 classified as unauthorised expenditure incurred be written-off;*
- (iv) Management should ensure that unauthorised expenditure is done through budget adjustments after Mid Year Budget & Performance Assessments performed in accordance with Section 72 of the MFMA.*

## **9.2 ON 2022/2023 UNAUTHORISED EXPENDITURE**

The MPAC's investigation of the unauthorised expenditure, this investigation was carried out in line with the guidance provided in MFMA circular 68, Municipal Budget and Reporting Regulations and other applicable legislation such as but not limited to Municipal Finance Management Act (No 56 of 2003).

The review was based on the unauthorised expenditure lists that were already populated by the municipality amounting to R 35 206 962, this amount related to the unspent conditional grants which were appropriated to salaries and other operational expenses including litigation costs, the National Treasury deducted this amount during the equitable share tranches.

On our investigation, we were satisfied that the Municipal Manager has taken steps to ringfence conditional grants with the business call accounts, both the Municipal Manager and Chief Financial Officer may request access to the capital amount invested in the business call account after submitting compelling grounds for this access, this internal control instrument may prevent recurrence in which the municipality appropriate conditional grants to unintended purposes.

In the circumstances, the MPAC hereby recommends as follows:

- (a) That an amount of R 35 206 962 classified as unauthorised expenditure be written off.
- (b) That Management should ensure that unauthorised expenditure is done through budget adjustments
- (c) That Internal control instruments be put in place to prevent this unauthorised expenditure

## **10 FRUITLESS AND WASTEFUL EXPENDITURE**

### **10.1 PROCESS TO BE FOLLOWED WHEN DEALING WITH FRUITLESS AND WASTEFUL EXPENDITURE**

In determining whether expenditure is fruitless and wasteful, Officials and Councillors must apply the requirement of reasonable care as an objective measurement, that is-

- (a) Would the reasonable person (in this case the experienced Official of Councillor) have incurred the particular expenditure under exactly the same conditions or circumstances? And
- (b) Is the expenditure being incurred at the right price, right quality, right time and right quantity?

## 10.2 The MPAC investigations in this regard found as follows during 2020/2021 financial year:

The results of our investigation indicate that in many areas fruitless & wasteful expenditure that was incurred by municipality was a result of the cash flow problems. Through inspection of the supporting documentation and bank statements, it was found that the municipality was indeed suffering from cash flow problems due to the fact that a large number of consumers are not paying for the services that were provided to them by the municipality.

The fruitless & wasteful expenditure that was incurred by the municipality was due to late payments to suppliers as a result of the cash flow problems. Therefore, the municipality has to prioritize which suppliers must be paid first. E.g. the payments that will hamper service delivery will be released first by the municipality.

Interest and penalty charges by SARS were not as a result of reckless behaviour by the Chief Financial Officer and other officials. However, interest and penalty charges were as a result of the late payments to SARS not as a result of late submission of the VAT returns to SARS.

SARS Statement of Account defines the "Interest and late payment penalty" as follows:

Interest – Interest has been calculated on the rate determined by the Minister of Finance in terms of the Public Finance Management Act, 1999. All VAT and Diesel amount that remain unpaid will accrue interest at the prescribed rate for each month or part of a month from the first day of a month following the month during which the period, allowed for payment of tax, ended.

Late payment penalty – A late payment penalty will be levied on all late payments and/or underpayments at a rate of ten percent of the amount underpaid.

As a result, the total amount of R 6 035 950.17 can be written off by the municipal council.

### Breakdown of Amounts to be written off.

No	Description	Total Fruitless & Wasteful Expenditure	Total Investigated Amount	Total Amount to be written off
1	Interest paid to Eskom - Electricity purchase	R3 576 109,23	R3 576 109,23	R3 576 109,23
2	SARS PENALTIES	R1 266 644,32	R1 266 644,32	R1 266 644,32
3	P&J SPORTS-REPAIRS	R408,90	R408,90	R0
4	MASHININI-Plant hire	R124 008,42	R124 008,42	R124 008,42
5	Leeuwrivier-Water purchases	R271 397,42	R271 397,42	R271 397,42
6	West rand consulting-AFS COMPILATION	R196 791,24	R196 791,24	R196 791,24
7	OVK-Petrol,tools &equipment	R6 573,45	R6 573,45	R6 573,45
8	Interest paid to Telkom	R1 141,42	R1 141,42	R1 141,42
9	FSU-Tools& Equipment	R3 384,32	R3 384,32	R3 384,32
9	KGOLO-MFMP Training	R29 352,90	R29 352,90	R29 352,90
10	Interest paid to Auditor General	R430 269,63	R430 269,63	R430 269,63
11	Interest paid to Bloem Water	R130 277,82	R130 277,82	R130 277,82
		<b>R6 036 359,07</b>	<b>R6 036 359,07</b>	<b>R6 035 950,17</b>

Having considered the Management representations, **the MPAC recommends as follows:**

- (a) *That an amount of R6,035 950.17 be written off by Council.*
- (b) *The amount of R408,90 for P&J SPORTS-REPAIRS be recovered from officials who delayed the payment because through our own inspection of bank statement it could be confirmed that the municipality could have paid the amount to avoid the interests, in addition to this recovery, consequence management should be effected against the implicated officials to prevent recurrence.*
- (c) *The Management must enter into payment plan with key creditors to avoid those interests, the progress report on the implementation of payment plans must be submitted monthly to the MPAC to track compliance.*

### **10.3 ON 2021/2022 FRUITLESS AND WASTEFUL EXPENDITURE**

*The results of our investigation indicate that in many areas fruitless and wasteful expenditure is as a result of cash flow problems in the municipality.*

*The results of our review indicate that in many areas fruitless & wasteful expenditure that was incurred by municipality was a result of the cash flow problems. Through inspection of the supporting documentation and bank statements, it was found that the municipality was indeed suffering from cash flow problems due to the fact that a large number of consumers are not paying for the services that were provided to them by the municipality.*

*The fruitless & wasteful expenditure that was incurred by the municipality was due to late payments to suppliers as a result of the cash flow problems. Therefore, the municipality has to prioritize which suppliers must be paid first. E.g. the payments that will hamper service delivery will be released first by the municipality.*

*Interest and penalty charges by SARS were not as a result of reckless behaviour by the Chief Financial Officer and other officials. However, interest and penalty charges were as a result of the late payments to SARS not as a result of late submission of the VAT returns to SARS.*

*SARS Statement of Account defines the "Interest and late payment penalty" as follows:*

*Interest – Interest has been calculated on the rate determined by the Minister of Finance in terms of the Public Finance Management Act, 1999. All VAT and Diesel amount that remain unpaid will accrue interest at the prescribed rate for each month or part of a month from the first day of a month following the month during which the period, allowed for payment of tax, ended.*

*Late payment penalty – A late payment penalty will be levied on all late payments and/or underpayments at a rate of ten percent of the amount underpaid.*

*As a result, the total amount of R9,441,307.98 can be written off by the municipal council.*

#### **Breakdown of Amounts to be written off.**

<b>No</b>	<b>Description</b>	<b>Total Fruitless &amp; Wasteful Expenditure</b>	<b>Total Amount Investigated</b>	<b>Total Amount to be written off</b>
1	Interest paid to Eskom - Electricity purchase	R6,126,561.25	R6,126,561.25	R6,126,561.25
2	SARS PENALTIES	R1,310,916.96	R1,310,916.96	R1,310,916.96
	MASHININI-Plant hire	R135,126.27	R135,126.27	R135,126.27
4	Leeuwrivier-Water purchases	R105,353.18	R105,353.18	R105,353.18

5	MANNA HOLDINGS-VALUATION	R257,483.88	R257,483.88	R257,483.88
6	OVK-Petrol,tools &equipment	R6,649.93	R6,649.93	R6,649.93
7	DBSA	R655,860.00	R655,860.00	R655,860.00
8	KGOLO-MFMP Training	R48,727.02	R48,727.02	R48 727,02
9	Interest paid to Auditor General	R714,508.18	R714,508.18	R714,508.18
10	Interest paid to Bloem Water	R128,848.33	R128,848.33	R128,848.33
		<b>R9,490,035.00</b>	<b>R9,490,035.00</b>	<b>R9,490,035.00</b>

Having considered the Management representations, **the MPAC recommends as follows:**

- (a) *The amount of R9,490,035.00 be written off by Council.*
- (d) *The Management must enter into payment plan with key creditors to avoid those interests, the progress report on the implementation of payment plans must be submitted monthly to the MPAC to track compliance.*

#### **10.4 ON 2022/2023 FRUITLESS AND WASTEFUL EXPENDITURE**

*The results of our investigation indicate that in many areas fruitless and wasteful expenditure is as a result of cash flow problems in the municipality.*

*The results of our review indicate that in many areas fruitless & wasteful expenditure that was incurred by municipality was a result of the cash flow problems. Through inspection of the supporting documentation and bank statements, it was found that the municipality was indeed suffering from cash flow problems due to the fact that a large number of consumers are not paying for the services that were provided to them by the municipality.*

*The fruitless & wasteful expenditure that was incurred by the municipality was due to late payments to suppliers as a result of the cash flow problems. Therefore, the municipality has to prioritize which suppliers must be paid first. E.g. the payments that will hamper service delivery will be released first by the municipality.*

*Interest and penalty charges by SARS were not as a result of reckless behaviour by the Chief Financial Officer and other officials. However, interest and penalty charges were as a result of the late payments to SARS not as a result of late submission of the VAT returns to SARS.*

*SARS Statement of Account defines the "Interest and late payment penalty" as follows:*

***Interest** – Interest has been calculated on the rate determined by the Minister of Finance in terms of the Public Finance Management Act, 1999. All VAT and Diesel amount that remain unpaid will accrue interest at the prescribed rate for each month or part of a month from the first day of a month following the month during which the period, allowed for payment of tax, ended.*

***Late payment penalty** – A late payment penalty will be levied on all late payments and/or underpayments at a rate of ten percent of the amount underpaid.*

*As a result, the total amount of R17,072,547.11 can be written off by the municipal council.*

### Breakdown of Amounts to be written off.

No	Description	Total Fruitless & Wasteful Expenditure	Total Amount Investigated	Total Amount to be written off
1	Interest paid to Eskom - Electricity purchase	R13,297,768.67	R13,297,768.67	R13,297,768.67
2	SARS PENALTIES	R1,566,035.59	R1,566,035.59	R1,566,035.59
3	P&J SPORTS-REPAIRS	R76.68	R76.68	R0.00
4	MEPM	R16,016.62	R16,016.62	R16,016.62
5	Leeuwrivier-Water purchases	R34,798.76	R34,798.76	R34,798.76
6	Interest paid to Free State Utilities	R372.72	R372.72	R372.72
7	OVK-Petrol,tools &equipment	R14,460.02	R14,460.02	R14,460.02
8	DBSA	R779,377.00	R779,377.00	R779,377.00
9	KGOLO-MFMP Training	R10,114.61	R10,114.61	R10 114.61
10	Interest paid to Auditor General	R1,019,694.71	R1,019,694.71	R1,019,694.71
11	Interetst paid to Bloem Water	R344,023.02	R344,023.02	R344,023.02
		<b>R17,082,738.40</b>	<b>R17,082,738.40</b>	<b>R17,082,661.72</b>

Having considered the Management representations, **the MPAC recommends as follows:**

- (e) *That an amount of R17,082,.72 be written off by Council.*
- (f) *The amount of R76,68 for P&J SPORTS-REPAIRS be recovered from officials who delayed the payment because through our own inspection of bank statement it could be confirmed that the municipality could have paid the amount to avoid the interests, in addition to this recovery, consequence management should be effected against the implicated officials to prevent recurrence.*
- (g) *The Management must enter into payment plan with key creditors to avoid those interests, the progress report on the implementation of payment plans must be submitted monthly to the MPAC to track compliance.*

#### **11 STAKEHOLDERS CONSULTED**

Free State Department of Provincial Treasury

#### **12 LEGAL IMPLICATIONS**

Honourable Speaker and Councillors, it must be noted that in terms of the **Local Government: Section 32(5) of the Municipal Finance Management Act, 56 of 2003** prescribes that:- *"The writing off in terms of subsection (2) of any unauthorised, irregular or fruitless and wasteful expenditure as irrecoverable, is no excuse in criminal or disciplinary proceedings against a person charged with the commission of an offence or a breach of this Act relating to such unauthorised, irregular or fruitless and wasteful expenditure".*

In the circumstances, the writing off is intended to clear accounting deficiencies or compliance with applicable accounting standards, it and does not absolve any wrongdoing or hinder disciplinary or criminal charges against where such may be necessary.

It is for this reason that **Section 32(6) of the Municipal Finance Management Act, 56 of 2003** prescribes that  
"The accounting officer must report to the South African Police Service all cases of alleged—

- (a) *irregular expenditure that constitute a criminal offence; and*
- (b) *theft and fraud that occurred in the municipality.*

**13 REFERRAL TO THE MUNICIPAL DISCIPLINARY BOARD**

There are various matters which were referred to the Disciplinary Board by Council after thorough investigation by the MPAC, however, such matters were not followed up to establish the progress to date.

It is for this reason that the MPAC will be meeting with the entire Financial Disciplinary Board, I will provide detailed report in this regard in the next ordinary council meeting.

**14 SUBMISSION BY THE MPAC CHAIRPERSON**

Honourable Speaker, the Mayor and all Councillors, let me take this opportunity to thank all members of the MPAC for having invested their time and resources in engaging this report, it is possible that all incidents of Unauthorised, Irregular, Fruitless and Wasteful expenditure can be prevented if all of us are serious about ensuring that this municipality is financially sustainable and is managed in a responsible manner.

I hereby present the report for your consideration and approval.

PREPARED BY

  
.....  
CLLR ARABANG JUSTICE LEMPHANE  
CHAIRPERSON: MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

CONSENTED BY MEMBERS.

CLLR K. TSIMATSIMA ABSENT WITHOUT APOLOGY

CLLR M.B SANI:.....

CLLR M. A LETHOKO.....

CLLR DJ HATTINGH.....

CLLR S.J NKIANE:.....