

NOTICE

Ref no.2/1/4/4/2

2021-10-25

NOTICE OF A SPECIAL MEETING OF THE COUNCIL OF BREEDE VALLEY MUNICIPALITY MONDAY, 2021-10-25 AT 8:00

TO The Speaker, Cllr J.P. Kritzinger [Chairperson]
The Executive Mayor, Alderman A. Steyn (Ms)
The Deputy Executive Mayor, Alderman E.Y. Sheldon

COUNCILLORS

M.N. Bushwana	A.Pietersen
K. Benjamin	P.C. Ramokhabi
Alderman R. Farao	J. Robinson
Alderman S.Goedeman	Alderman M. Sampson
E.N. Isaacs	
Alderman C. Ismail	I.L. Tshabile
M. Jacobs	Alderman P.Tyira
J.R.Jack	M. Jacobs
J.D.P.Jaftha	E.Van der Westhuizen
P.B.Langata	F. Vaughn
Z.M. Mangali	Alderman J.F. Van Zyl
T.Maridi	J.J. Von Willingh
T. McThomas	
S.J.Mei	W.Vrolick
Alderman W.R.Meiring	T.M. Wehr
S.M. Mkhwane	L. Willemse
V.I. Mngcele	N.P. Williams
C.M. Mohobo	M.T. Williams
N.Nel	C.F. Wilskut
	N.J. Wullschleger

Notice is hereby given in terms of Section 29, read with Section 18(2) of the *Local Government: Municipal Structures Act, 117 of 1998*, as amended, that a **SPECIAL MEETING** of the **COUNCIL** of **BREEDE VALLEY MUNICIPALITY** will be held by means of a virtual platform on **MONDAY, 2021-10-25** at **8:00** to consider the items on the Agenda.


SPEAKER
C/ LR J.P. KRITZINGER



BREEDE VALLEY

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TABLE OF CONTENTS

ITEM	SUBJECT	PAGE
1.	OPENING AND WELCOME	
2.	OFFICIAL NOTICES	
2.1	Disclosure of interests	
2.2	Applications for leave of absence	
3.	CONSIDERATION OF MATTERS SUBMITTED BY THE ADMINISTRATION	
3.1	QUARTERLY PERFORMANCE REPORTS PERTAINING TO THE FIRST QUARTER (1 JULY 2021 – 30 SEPTEMBER 2021) AND SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 SEPTEMBER 2021. MFMA SECTION 71 & 52 (d) Report	
3.2	2020/2021 YEAR-END PERFORMANCE EVALUATION REPORT OF THE MUNICIPAL MANAGER AND DIRECTORS	
4.	CLOSURE	

1. OPENING AND WELCOME

In terms of the Rules of Order for Internal Arrangement By-Law 2012 the chairperson must take the chair at the time stated in the notice of the meeting or as soon thereafter as is reasonably possible: provided that the meeting does not commence later than 30 (thirty) minutes after the time stated in the notice of the meeting and must proceed immediately with the business of the meeting.

2. OFFICIAL NOTICES**2.1 DISCLOSURE OF INTERESTS**

Item 5 of the Code of Conduct for councillors' states:

A councillor must –

- (a) disclose to the council, or any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and
- (b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillors' direct or indirect interest in the matter is trivial or irrelevant.

2.2 APPLICATIONS FOR LEAVE OF ABSENCE

In terms of the Rules of Order for Internal Arrangement By-Law 2012.

- 2.2.1 Every Councillor attending a meeting of the Council must sign his or her name in the attendance register kept for such purpose.
 - 2.2.2 A Councillor must attend each meeting except when –
 - (a) Leave of absence is granted in terms of Clause 10; or
 - (b) The Councillor is required to withdraw in terms of law.
 - 2.2.3 The Attendance Registers will be available at the meeting.
 - 2.2.4 A blank Application for Leave of Absence form is enclosed.
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3. CONSIDERATION OF AGENDA ITEMS**3.1 QUARTERLY PERFORMANCE REPORTS PERTAINING TO THE FIRST QUARTER (1 JULY 2021 – 30 SEPTEMBER 2021) AND SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 SEPTEMBER 2021.
MFMA SECTION 71 & 52 (d) Report****File No./s:** 3/15/1**Responsible Official:** C Malgas**Directorate:** Strategic Support Services**Portfolio:** Performance Management

1. PURPOSE

To inform Council on the implementation of the budget and the financial state of affairs of the Municipality and assess performance against the performance indicators set in the approved 2021/2022 Top-Layer SDBIP.

2. BACKGROUND

According to Section 52(d) of the MFMA, the Mayor must, submit a report to the Council on the implementation of the budget and the financial state of affairs of the Municipality. Effective in-year reporting provides municipal management with an opportunity to analyse performance and address shortcomings and improve internal controls and service delivery.

All quarterly reports tabled in the Council in terms of section 52(d) must be placed on the website not later than five days after its tabling in the Council or on the date on which it must be made public, whichever occurs first.

In terms of the Municipal Finance Management Act, 56 of 2003, section 71.

(1) The accounting officer of a municipality must by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the prescribed format on the state of the municipality's budget reflecting the following particulars for that month and for the financial year up to the end of that month:

- (a) Actual revenue, per revenue source;
 - (b) actual borrowings;
 - (c) actual expenditure, per vote;
 - (d) actual capital expenditure, per vote;
 - (e) the amount of any allocations received;
 - (f) actual expenditure on those allocations, excluding expenditure on
 - (i) its share of the local government equitable share; and
 - (ii) allocations exempted by the annual Division of Revenue Act from compliance with this paragraph; and
 - (g) when necessary, an explanation of-
 - (i) any material variances from the municipality's projected revenue by source, and from the municipality's expenditure projections per vote;
 - (ii) any material variances from the service delivery and budget implementation plan; and
 - (iii) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's approved budget.
- (2) The statement must include-
- (a) a projection of the relevant municipality's revenue and expenditure for the rest of the financial year, and any revisions from initial projections; and
 - (b) the prescribed information relating to the state of the budget of each municipal entity as provided to the municipality in terms of section 87(10).
- (3) The amounts reflected in the statement must in each case be compared with the corresponding amounts budgeted for in the municipality's approved budget.
- (4) The statement to the provincial treasury must be in the format of a signed document and in electronic format.
- (5) The accounting officer of a municipality which has received an allocation referred to in subsection (1)(e) during any particular month must, by no later than 10 working days after the end of that month, submit that part of the statement reflecting the particulars referred to in subsection (1)(e) and (f) to the national or provincial organ of state or municipality which transferred the allocation.
- (6) The provincial treasury must by no later than 22 working days after the end of each month submit to the National Treasury a consolidated statement in the prescribed format on the state of the municipalities' budgets, per municipality and per municipal entity.
- (7) The provincial treasury must, within 30 days after the end of each quarter, make public as may be prescribed, a consolidated statement in the prescribed format on the state of municipalities' budgets per municipality and per municipal entity. The MEC for finance must submit such consolidated
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statement to the provincial legislature no later than 45 days after the end of each quarter.

3. COMMENT

A copy of the Quarter 1 SDBIP Performance Report and Top-Layer KPI Report is attached as Annexures "A" and "B" respectively. A copy of the in year financial management report is attached as Annexure "C".

4. FINANCIAL IMPLICATIONS

None

5. APPLICABLE LEGISLATION / COUNCIL POLICY

- Municipal Finance Management Act, no. 56 of 2003

COMMENTS OF DIRECTORATES CONCERNED

Municipal Manager: Recommendation Supported

Director Strategic Support Services: Recommendation Supported

Director Financial Services: Recommendation Supported

Director Engineering Services: Recommendation Supported

Director Community Services: Recommendation Supported

Acting Director: Public Services: Recommendation Supported

Senior Manager Legal Services: Recommendation Supported

RECOMMENDATION

That in respect of -

THE QUARTERLY PERFORMANCE REPORT FOR THE FIRST QUARTER (1 JULY 2021 – 30 SEPTEMBER 2021) AND SUBMISSION OF THE IN-YEAR FINANCIAL

**MANAGEMENT REPORT FOR THE PERIOD ENDED 30 SEPTEMBER 2021.
MFMA SECTION 71 & 52 (d) Report**

as discussed by Council at the Special Council meeting held on 25 October 2021:

1. That Council takes note of the Quarter 1 SDBIP Performance Report and the Top-Layer KPI Report for the period 1 July 2021 – 30 September 2021 and ;
2. That council takes note of the in-year financial management report for the period ended 30 September 2021.

To Action

C. Malgas/ R. Ontong

**3.2 2020/2021 YEAR-END PERFORMANCE EVALUATION REPORT
OF THE MUNICIPAL MANAGER AND DIRECTORS****File No. /s:** 3/15/1**Responsible Official:** C. Malgas**Directorate:** Strategic Support Services**Portfolio:** IDP/PMS/SDBIP

1. PURPOSE

To notify Council of the performance outcomes achieved by the Section 57 Managers (as per the Year-end Evaluation Report), as prescribed by the applicable legislative prescripts.

2. BACKGROUND**2.1 Employment Contracts & Performance Agreements:**

In terms of section 57 of the Municipal Systems Act, Act 32 of 2000 (hereafter referred to as the MSA), a person to be appointed as a Municipal Manager or Director may only be appointed in that position:

- (a) in terms of a written employment contract with the municipality; and
- (b) a separate performance agreement concluded annually.

The Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, notice 805 of 2006 (hereafter referred to as the MPRMM&M), stipulates that the Employment Contract of Section 57 Managers, subject to labour legislation, specifically delineates the terms of employment such as:

- a) details of duties;
- b) remuneration;
- c) benefits; and
- d) other terms and conditions of employment

The Performance Agreements on the other hand, provides assurance to the Municipal Council of what can and should be expected from their Municipal Manager and Directors. The purpose thereof is to:

- Comply with the provisions of Sections 57(1)(b), (4A), (4B) and (5) of the Systems Act as well as the employment contract entered into between the parties;
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- Specify objectives and targets defined and agreed with the employee and to communicate to the employee the employer's expectations of the employee's performance and accountabilities in alignment with the IDP, SDBIP and the budget of the municipality;
- Specify accountabilities as set out in a performance plan, which forms an annexure to the performance agreement;
- Monitor and measure performance against set targeted outputs;
- Use the performance agreement as the basis for the subsequent performance evaluation to assess whether the employee has met the performance expectations applicable to his or her job;
- In the event of outstanding performance, to appropriately reward the employee; and
- Give effect to the employer's commitment to a performance-orientated relationship with its employee in attaining equitable and improved service delivery.

The following conditions should be noted when considering the employment contract and performance agreement respectively:

Type	Validity Period	Position	Parties	
			Employer	Employee
Employment Contract	5-year contract	Municipal Manager	Executive Mayor	Municipal Manager
	10-year contract	Directors	Municipal Manager	Directors
Performance Agreement	1-year agreement	Municipal Manager	Executive Mayor	Municipal Manager
		Directors	Municipal Manager	Directors

The Performance Agreements for the period under review (i.e. 2020/21), served before Council on 28 July 2020 (Council Resolution C45/2020); while the corresponding Annexure A's hereof (KPI component only), were amended and signed by the relevant parties in March 2021. Council should note that amendments are permitted subject to the mid-year evaluation, as will be elaborated on in bullet 5 of the subsequent section.

2.2 Monitoring & Evaluation of Performance:

Monitoring and evaluation of performance is conducted frequently, and in line with the applicable legislative prescripts. Regulation 26 (5) of the MPRMM&M states that performance must be measured against the Key Performance Area's/Indicators (KPA's/KPI's) and Core Competency Requirements, based on an 80:20 weighting respectively.

KPA's/KPI's – 80% of Performance Outcome

The KPA's/KPI's are encapsulated in the Service Delivery and Budget Implementation Plan (SDBIP) and approved by the Executive Mayor (in terms of Section 53 of the Municipal Finance Management Act and Circular 13 of the MFMA) prior to the commencement of a particular financial

year. In addition, the approved SDBIP is submitted to Council for notification. The KPI's, as encapsulated in the SDBIP, are split between top-layer and departmental KPI's. These KPI's, as stated in bullet 3 of the preceding section, are incorporated into the Performance Agreement of each Section 57 Manager and serves as basis for the performance monitoring and evaluation conducted throughout a particular year in review.

As the KPA/KPI component contributes 80% to the overall performance outcome, various monitoring and evaluation mechanisms are implemented to verify performance. These include:

- Quarterly/mid-yearly and yearly reporting to Council on the performance realised in relation to each top-layer KPI
 - Monthly monitoring and reporting on departmental KPI's (Section 57 Managers and appointed line Managers)
 - Independent internal scrutiny and auditing of top-layer KPI's by Internal Audit as well as the Municipal Audit & Performance Audit Committee, coupled with report back to Management and Council which specifically elaborates on:
 - the KPI's degree of compliance with the SMART-principles (i.e. Specific, Measurable, Achievable, Relevant and Time-based); and
 - each KPI's performance status/progress
 - Independent external scrutiny and auditing of top-layer KPI's by the Auditor-General, coupled with report back to Management which specifically elaborates on the Auditor-General's:
 - evaluation of the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework;
 - procedures to determine whether performance information was properly presented and whether performance was consistent with the approved performance planning documents;
 - procedures to determine whether the indicators and related targets were measurable and relevant; and
 - assessment of the reliability of the reported performance information to determine whether it was valid, accurate and complete
 - Informal & formal performance evaluations conducted as follows:
 - Informal Evaluations: Quarters 1 & 3 – evaluations conducted by Section 57 Manager, with the applicable Management team
 - Formal Evaluations: Quarters 2 (mid-year) & 4 (year-end) – evaluations conducted by a panel as constituted in terms of regulation 27 (4)(d) of the MPRMM&M. The outcomes of the year-end performance evaluation (quarter 4) is used to determine the overall performance score for a particular year under review. The mid-year evaluation serves as opportunity to reflect on performance progress realised within the first half of a particular financial year, primarily to institute proactive corrective measures as and where applicable. Amendment(s) made to the TL KPI's as a result of this evaluation, will constitute a corresponding amendment of the Performance Agreements (only Annexure A thereof). The year-end evaluation is utilised to determine
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the final/overall performance outcome achieved by each Section 57 Manager in that particular financial year.

- Oversight exercised by the Municipal Public Accounts Committee on the 20/21 Annual Report, inclusive of the top-layer KPI's contained in the Annual Performance Report component (yet to be conducted).

Core Competency Requirements – 20% of Performance Outcome

Annexure A of the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, notice 21 of 2014, provides a competency framework that should be portrayed by all Section 57 Managers. Consequently, Section 57 Managers are assessed, during the formal performance evaluations, on the back-drop of this competency framework. The outcome obtained during the year-end performance evaluation will contribute 20% to the overall performance outcome.

The table below, presents the performance outcomes of the Section 57 Managers as obtained at the end of the 2020/21 financial year (based on the year-end performance review)

Employee	Operational % (80%)	Competencies % (20%)	Final Score (100%)
Mr D McThomas	65.00%	19.67%	84.67%
Mr R Esau	69.20%	19.67%	88.87%
Mr R Ontong	70.20%	17.67%	87.87%
Mr J Steyn	69.80%	17.33%	87.13%
Mr S Swartz	66.20%	17.67%	83.87%

2.3 Payment of Performance Bonusses:

Section 57 (4B) of the MSA states that bonusses based on performance, be awarded to Section 57 Managers after the end of the financial year and only after an evaluation of performance and approval of such evaluation of the municipal council concerned. This section is underpinned by regulation 8 of the MPRMM&M, which states (amongst others) that performance bonusses be paid to the employee after:

- The annual report for the financial year under review has been tabled and adopted by the municipal council;
- an evaluation of performance in accordance with the provisions of regulation 23 (which elaborates on the purpose and of the performance agreement); and
- approval of such evaluation by the municipal council as a reward for outstanding performance

With regards to bullet 3 above, Council should note that it has (in terms of Section 59 of the MSA coupled with delegation P.1.05.1 of the Breede Valley Municipality's approved System of Delegations - Council Resolution C61/2016), delegated the authority of approving the performance evaluation to the Executive Mayor of Breede Valley Municipality. The performance outcome as per this report was approved by the Executive Mayor in line with this delegated authority.

Council should further note that to date, no performance bonusses have been paid for the 2020/21 financial year under review.

3. COMMENT

Copies of the following supporting documents are attached for Council's perusal:

- Annexure A – Extract of the TL KPI Annual Performance Report as per the 20/21 Draft Annual Report
- Annexure B - The 2020/21 Section 57 Year- end Performance Evaluation Report & corresponding supporting evidence

4. FINANCIAL IMPLICATIONS

Payment of performance bonuses to Section 57 Managers based on the performance outcome achieved in the 2020/21 financial year are subject to- and aligned with the applicable legislative prescripts, contractual agreements stipulating (amongst others) the % to be paid based on performance outcomes, approval of the performance outcomes by the Executive Mayor and Council, and the approved budget. The actual calculation and payment hereof, will be facilitated by the Salary Department, subject to compliance with all the conditions stated above and in preceding sections. This transaction's compliance with the mentioned provisions, will be audited by the Auditor-General.

5. APPLICABLE LEGISLATION/COUNCIL POLICY

- Chapter 7 of the Local Government: Municipal Systems Act 32 of 2000
- Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, Notice 805 of 2006 Local Government Municipal Systems Amendment Bill, No 7 of 2011
- Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, notice 21 of 2014

COMMENT OF DIRECTORATES/DEPARTMENTS CONCERNED

Municipal Manager: Recommendation Supported

Chief Audit Executive: Recommendation Supported

Senior Manager Legal Services: Recommendation Supported

RECOMMENDATION

That in respect of-

THE 2020/21 SECTION 57 YEAR-END PERFORMANCE EVALUATION REPORT OF THE MUNICIPAL MANAGER AND MANAGERS DIRECTLY ACCOUNTABLE TO THE MUNICIPAL MANAGER,

tabled before Council at the Special Council meeting held on 25 October 2021:

1. That Council approve the performance outcomes achieved by the respective Section 57 Managers (as per the 2020/21 Section 57 Year-end Performance Evaluation Report) as endorsed by the Executive Mayor.

To Action

C. Malgas

4. CLOSURE
