**NATIONAL ASSEMBLY  
  
QUESTIONS FOR WRITTEN REPLY  
  
QUESTION NUMBER 2016/17  
  
DATE OF PUBLICATION: 12 FEBRUARY 2016  
  
PQ2016/17. Mr M Hlengwa (IFP) to ask the Minister of Cooperative Governance and Traditional Affairs:**  
What action will he take to ensure that a mayor is elected at the uMzinyathi District Municipality following the resignation of the former mayor in September 2015, as numerous municipal council meetings since then have failed to elect a Mayor, partly due to the absence of the Speaker?NW17E  
  
**Reply:**  
  
Section 41 of the Municipal Structures Act, 1998 (Act No. 117 of 1998) ("the Structures Act') provides that if the speaker of a municipal council is absent or not available to perform the functions of speaker, the municipal council must elect another councillor to act as speaker. If the position of mayor is vacant, the deputy mayor exercises the powers and performs the duties of the mayor. If the mayor is absent or not available and the municipality does not have deputy mayor or the deputy mayor is absent or not available, a councillor elected by the members of the executive committee acts as mayor, if the mayor has not designated a member or if the designated member is absent or not available. Section 48(2) of the Structures Act provides that the election of a mayor or deputy mayor takes place when it is necessary to fill a vacancy.  
  
Therefore, the necessity to fill the vacant position of mayor is the prerogative of council, unless there is evidence to prove that the municipality does not fulfil the statutory obligations binding on it