

**BRIEF TO THE WATER AND SANITATION
PORTFOLIO COMMITTEE
NATIONAL PARLIAMENT**

**DEPARTMENT OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

04 NOVEMBER 2015

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PRESENTATION CONTENTS

1. COGTA Presentation
2. Inxuba Yethemba Municipality Presentation
3. Chris Hani Presentation

Cooperative Governance and Traditional Affairs (COGTA – EC)

BACKGROUND

- In 2003, District Municipalities and few Local Municipalities, were allocated the function of Water Services Authorities (WSAs)
- In the EC Province 16 WSAs were established comprised of 5 DMs, 8 Sarah Baartman LMs and the 2 Metros (BCMM and NMBM)
- As required by the Municipal Systems Act, all newly established WSAs embarked on Municipal Systems Act Section 78, which requires the WSA to determine a mechanism on how to provide water services
- The COGTA, DWS and NT established a Provincial Joint Response Team (PJRT) to assist all newly established WSAs with the transitional formalities and S78 consultative processes
- Having concluded S78 assessment, of the 5 District Municipalities, only CHDM opted for an external mechanism to devolve the WSP function to its 8 LMs

BACKGROUND (CONT.)

- Later, Joe Gqabi District Municipality (JGDM) also opted for an external mechanism in terms of S78 and devolved the WSP function to its 4 Local Municipalities
- The remaining 3 DMs (ORTDM, ANDM and ADM) never devolved the WSP function to its LMs, instead based on the S78 report, they opted for an internal mechanism to establish Water Services Units (WSUs) in each LM.
- In 2014 both CHDM and JGDM as WSAs decided to take back the WSP function from all their respective LMs, both stating reasons of complete paralysis of the WSP function in their LMs
- This action was received with mixed reaction by affected LMs, some willingly surrendering back the WSP function and some resisted to hand-back the function
- Notable, both COGTA and DWS were not involved in the decision by both DMs to take back the WSP function from their LMs

Problem Statement

- Some of the reasons stated by most LMs who conceded to the transfer of WSP function back to DMs are:
 - The DM's subsidy and equitable share to LMs was grossly insufficient to operate the provision of water services
 - The Billing System also created a nightmare for the LMs as it was never fixed to the satisfaction of rate-payers
 - Also assets management continuously became a burden to the LMs and adversely affected their audit outcomes
- Some of the reasons stated by the few LMs who opposed the transfer of WSP function to the DMs are:
 - The transfer will render the LMs non-viable as the water services provision has been the source of revenue for these LMs
 - A transitional process that has a potential to create confusion to the workers and disruption of services to communities
 - There has been no consultative process regarding the transfer

COGTA Observations

- There is no legislation or Policy Framework that guards against the manipulation by DMs of MSA S78 processes, where DMs continuously take the same decision in their favour to perpetually keep the function to the detriment of LMs that aspire to be WSAs or WSPs. Some of these LMs have tested revenue base, and proven capacity to execute the function. At the same time some LMs have kept the function of WSA and WSP unjustifiable.
- The MSA S78 leaves the decision whether to devolve to LM or transfer back the function to the DM, as a prerogative of the DM, consequently resulting into tensions between the DM and its LMs
- Since the function was allocated to DMs in 2003, there has been no clear programme with concomitant resourcing to capacitate the LMs with the purpose of bringing closer to communities the services, instead the latest trend is that LMs surrender back the function or the DM takes back the function.

COGTA Recommendations

- An independent provincial Water Services Evaluation Board constituted mainly by SALGA, COGTA, DWS, PT, and Water Boards, should be established, to develop a Policy Framework guiding DMs and LMs on the application processes for a WSA or WSP status. The Board must adjudicate the applications based on merit of each case
- During the actual implementation, the Water Services Evaluation Board must assess or by invitation and make a determination after a thorough consultative process, whether to devolve to LM or transfer back the function to the DM or opt for another mechanism, to ensure the disruption of services to communities are minimized and not protracted perpetually.
- Water Services Evaluation Board must develop a WSA-WSP Capacity Development Framework, focusing specifically at LMs with the main agenda of transferring the water services function at LM level, to advance the socio-economic development of the LM through revenue enhancement



Province of the
EASTERN CAPE
COOPERATIVE GOVERNANCE
& TRADITIONAL AFFAIRS

INXUBA YETHEMBA LM

BACKGROUND

- In terms legislation, District Municipalities were declared Water Services Authorities and Water Services Providers
- This had an impact on the previous regime where local municipalities were water services providers, with the result that, local municipalities stopped to have a legislative mandate to deal with water related issue.
- This new arrangement led to DMs entering into SLAs with those local municipalities which were already providing water due to their historic capacity of performing the water function.
- Chris Hani District Municipality (CHDM) entered into an SLA with Inxuba Yethemba Municipality(IYM) wherein IYM continued the provision function with successive SLA the last of which terminated in June 2014.

BACKGROUND (CONT.)

- In March 2014, CHDM resolved to take the provision function from IYM and the view or expectation of IYM Council was that CHDM would have engaged IYM extensively on the issue before terminating the contract
- IYM Council was of the view that the taking over issue was dealt with properly by CHDM as the view of Council was that the issue was not communicated well and the implications and impact of the termination
- The Provincial Treasury was also involved in an effort to persuade CHDM to re-consider their decision and were not open to that option
- In an engagement with the business community of IYM concerns about new tariffs were raised and CHDM later resolve o lower the tariffs

BACKGROUND (CONT.)

- Even the Regional Structure of the ANC was approached to intervene without any success and in the process tensions developed and attitudes hardened
- IYM Council once more resolved that SALGA, CoGTA (Prov. and Nat.) Treasury (Prov. And Nat.) and Water and Sanitation Dept. must be engaged to intervene on this matter.
- IYM Council also deliberated on the issue of the impact to the grading of the municipality this might have as it had an impact on the municipal budget which has a direct correlation to determination of grading of municipalities

CHALLENGES AND REALITIES OF TERMINATION

- On the ground communities were and are still relating to a large extent the water function to the local municipality in the sense that though there is some slow movement to the realization that water is not longer a function of IYM in terms of relational issues the municipality still has to deal with water related issues (Communities complain in LM after which those are elevated to the DM with serious impact on service delivery)
- Water related complaints needed to be addressed, however the municipality was not in position to undertake this as there was no budget provision for water.
- Issues related to the Intergovernmental Fiscal relations were also an issue as IYM had to bill CHDM for services rendered, in terms of electricity and any other service rendered
- This was a very serious issue as from time to time CHDM would query the invoice to them which resulted in delay of payments impacting on the already dire cash flow situation of IYM

CHALLENGES AND REALITIES OF TERMINATION

Payments would be delayed by several months after billing due to the consistent querying of our invoices by the CHDM. This has an impact in our ESKOM account as they are a bulk user. As an example CHDM owes IYM R4m due to this consistent non-payment.

- **Late payment by CHDM.**
 - There is always dispute around total amount claimed and they delay's payment.
- **Long overdue accounts.**
 - Long outstanding pump stations debt. Because of high amounts CHDM is reluctant to pay. This affect our cash flow as we are a municipality that is grant depended.
- **Loss of infrastructure.**
 - Losing the function of being water service provider meant we've lost infrastructure as well.

IYM DECISIONS

- After it became clear that there is no headway made to negotiate the issue of water services function between the institutions, IYM resolved to look at the option of applying to the Minister to be declared a water services authority in terms of the applicable legislation. This was informed by information researched which indicated that most local municipalities in the Sarah Baartman DM were water services authorities which automatically conferred on the provision aspect the whole function.
- The political principals in Council delegated the MM to kick the process of applying to the Minister for granting water authority status.

THANK YOU



