**UNREVISED HANSARD**

**NATIONAL COUNCIL OF PROVINCES**

**FRIDAY, 20 AUGUST 2021**

***PROCEEDINGS OF THE NATIONAL COUNCIL OF PROVINCES***

The Council met at 09:34.

The Chairperson took the Chair and requested members to observe a moment of silence for prayers or meditation.

The CHAIRPERSON OF THE NCOP: Hon members, in keeping with our tradition and our way we have been doing things, I will start of by bowing to my right and left. Having done so, let me take this opportunity and make the following points.

First, is an observation that many people have passed on and one of those individuals is Sechaba Dan Montsisi, a leader of the Soweto June 16 Uprisings in 1976, he is no more.

A lot of us are consciously aware that COVID-19 is upon us. Before we observe a moment of silence for prayer or meditation, we will do well to note amongst others the following:

That world figures on COVID-19 related deaths, stands at 4,4million people, recovered are 188 million people, mild conditions stand at 17, 536, 981.

In relation to South Africa as of the 5th of August 2021, overall, South African COVID-19 cases reached its highest at 2,4million infections. These are largest volumes of confirmed cases compared to other African countries. Regionally, Gauteng especially Johannesburg was the largest hit with 869 000 cases, Western Cape especially Cape Town 410 000 cases, KwaZulu-Natal especially Durban, 402 000 cases, and deaths stands at about 78 000 people. No province had been left unaffected.

So, as we observe a moment of silence for prayer or meditation let’s also reflect and think deeply about these cases and this situation.

Hon delegates, I would like to remind you of the following. That the virtual sitting constitutes a sitting of the National Council of Provinces.

Delegates in this virtual sitting enjoys the same powers and privileges that apply in the sitting of the National Council of Provinces.

For the purposes of the quorum all delegates in the virtual platform shall be considered to be present in the House.

Delegates must always switch on their videos. Delegates should ensure that the microphones on their gadgets and videos are muted and must always remain muted unless you have permission to speak. That interpretation facility is active. Any delegate who wishes to speak must use the raise your hand function.

Having said that, I have been informed that they will be no notices of motion or motions without notice. So, we will proceed to the order of the day.

# CONSIDERATION OF REPORT OF SELECT COMMITTEE ON COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, WATER, SANITATION AND HUMAN SETTLEMENTS

Mr M I RAYI: Hon Chairperson, I have been asked to table the report on behalf of hon Dodovu, my name is Mandla Rayi.

The CHAIRPERSON OF THE NCOP: Thank you very much. We will ask hon Mandla Rayi to then in the absence of hon Dodovu to present the report.

Mr M I RAYI: Thank you very much, hon Chairperson, greetings to you, to the Deputy Chairperson, the Chief Whip of the Council, hon members, special delegates, MECs present, the Select Committee on Co-operative Governance and Traditional Affairs, having considered the request by the NCOP to consider and report on the intervention a notice invoke in OR Tambo District Municipality in terms of section 139 (1)(c) of the Constitution.

The select committee reports as follows in terms of the NCOP Rule 101**,** the office of the NCOP Chairperson refer the notice of dissolution by the Eastern Cape Provincial Council to the Select Committee for consideration and reporting. On 18 August 2021 [Inaudible] ....

The CHAIRPERSON OF THE NCOP: Hon Rayi, I am sure you will be able to proceed?

Mr M I RAYI: I have been muted by the host, I don’t know why.

The CHAIRPERSON OF THE NCOP: There is a problem with your picture, it appears half on the screen. Please proceed.

Mr M I RAYI: ... On 18 August 2021, the select committee held a virtual interactive and consultative meeting with the Eastern Cape Department of Co-operative Governance and Traditional Affairs, Cogta, internal and stakeholders of the district municipality on the notice of intervention invoked in terms of section 139 (1)(c) of the Constitution, in the district municipality. The main objective of the consultative virtual meeting was to solicit opinions of all stakeholders on the constitutional, procedural and substantive matters related to the invocation of the section 139 (1)(c) in the district municipality.

The Eastern Cape Department of Cogta briefed the meeting on the constitutional, procedural and substantive matters. The mayor and the speaker of the district municipality, representatives of the political parties, organised labour, traditional leaders, local municipalities, business forum and youth structures, tabled their opinions on the invocation of section 139 (1)(c) of the Constitution in the district municipality.

The Department of Cogta briefed the select committee and the stakeholders on the invocation of section 139 (1)(c) of the Constitution. The presentation focused on the background, substantive matters, related to financial management, service delivery, good governance, institutional development, factors taken by the executive council as basis for dissolution and the state of affairs in the district municipality.

The department reported that the decision to invoke provision of section 139(1)(c) of the Constitution was done after the district municipality was given support on several areas by both the national and provincial treasuries and the Department of Cogta. All these interventions could not yield the expected results.

The district municipality has been facing serious governance and administrative crisis. In June 2020, the municipal manager was placed on a precautionary suspension following a media expose of the alleged payments to various companies without having done any work. Consequently, various investigative agencies came on board to establish the veracity of the allegations and who could be held accountable for such deeds.

The President of South Africa issued Proclamation No. R23 of 2020 in terms of Gazette No. 43546, dated 23 July 2020 for the Special Investigative Unit, SIU, after the request by the Premier, to investigate on the procurement of personal protective equipment, PPEs, in the district municipality. An in-depth assessment was done by the department on the institution with a view to assess the political environment under which the district municipality operates in, how this impacted on the social responsibility of the district municipality.

Hon Chairperson, I seem to have challenges with my connectivity, I am in the West Coast. I will quickly go to the recommendation of the committee.

The CHAIRPERSON OF THE NCOP: Please proceed.

Mr M I RAYI: Let me start with the observation of the select committee. On 08 July 2021, the select committee has noted on the special meeting of the executive council after the tabling of the detailed report by the Department of Cogta, resolved that it is considering invoking the provisions of section 139(1)(c) in the affairs of O.R Tambo District Municipality and directed that the MEC responsible for Cogta to write to

the Speaker and the Executive Mayor of the O.R Tambo District Municipality, and request reasons why the provisions of section 139(1)(c) may not be invoked in the municipality, and request that a response be given within seven business days.

The select committee has also noted on 09th July 2021, the notices of intention to invoke the provisions of section 139(1)(c) in the affairs of the O.R Tambo District Municipality were issued by the MEC, and delivered to both the Speaker and the Executive Mayor of O.R Tambo District Municipality as directed by executive council.

The select committee has further noted that according to the notice, the Provincial Executive of the Eastern Cape resolved on 4 August 2021, to intervene in the municipality in terms of section 139(1)(c) of the Constitution. The notice from the MEC for Cogta, dated 6 August 2021, submitted in terms of section 139(3)(a)(ii), was received by the NCOP on the same day.

The select committee has observed and noted that the substantive matters related to the invocation of section 139(1)(c) of the Constitution in the district municipality revolve around local government pillars of financial

management, service delivery, good governance and institutional capability.

The select committee has noted with concern, through the inputs made by some stakeholders and the analysis of the report presented, that the relations between the speaker and the executive mayor have broken down to the extent that the executive mayor is no longer attending council meetings convened by the speaker, questioning the composition of the council. Furthermore, recalled Councillors from local municipalities are always invited to be part of the council meetings by the Speaker, resulting in the composition of the meetings to be questioned.

The select committee noted that most of the internal and external stakeholders who opposed the invocation of section 139(1)(c) of the Constitution in the district municipality, raised concerns with regard to the failure of the MEC for Cogta to table the report to the council on forensic investigation conducted in terms of section 106 of the Municipal Systems Act.

The select committee has taken cognisant of the constitutional provision that the dissolution takes effect 14-days from the

date of receipt by the NCOP, that is 20 August 2021. According to the notice, if the dissolution takes effect, Mr Basil Mase will be appointed as an administrator to act until a newly elected municipal council has been declared elected.

On the recommendations of the select committee, having virtual consulted and engaged with the Department of Cogta as well as the internal and external stakeholders of the district municipality, the Select Committee recommends to the NCOP in terms of Rule 101 as follows:

Firstly, the NCOP approves the invocation of section 139(1)(c) of the Constitution in O.R Tambo District Municipality.

Secondly, the Eastern Cape MEC for Cogta should table the report on the forensic investigation conducted in terms of section 106 of the Municipal System Act to the NCOP.

Thirdly, the Eastern Cape MEC for Cogta should provide quarterly progress reports on forensic investigation reports conducted by the SIU in terms of Presidential proclamations.

The Select Committee on Cogta should align its quarterly programmes to ensure continuous monitoring of the

implementations of the findings and recommendations of investigations reports conducted in terms of section 106 of the Municipal System Act and SIU in terms of the Presidential Proclamations in Local and District Municipalities.

*Declarations of vote:*

Mr I M SILEKU: Good morning Chairperson and good morning hon members. Chair, I would like the House to know that it was very unfortunate during our consultation with SA Local Government Association, Salga that I was not given an opportunity to comment on this particular intervention. Hon Chair, the DA cannot in good conscience support the recommendations of the Select Committee on Co-operative Governance and Traditional Affairs to dissolve O R Tambo District Municipality.

The exceptional circumstances requiring drastic measures should have been acted upon when the council chamber became a war zone for factional infightings. This, despite the Auditor- General’s findings of mismanagement, irregularities, fraud and corruption which systematically nurtured itself in every department. With so much uncertainty whether the Local Government Elections will be held in 2021, February 2022 or later than that, the provincial government of the Eastern Cape

has found it convenient to request the dissolution of this municipality at the back of two High Court judgements ordering the dissolution of Makana Local Municipality and Enoch Mgijima Local Municipality which of course they elected to waste taxpayer’s money and appealed.

It is clear to everyone that once again ANC factional battles have taken root in municipalities and the ANC would not mind sacrificing the lives and livelihoods of the people of O R Tambo District Municipality in their quest to settle and sort out political scores. The DA has on numerous circumstances written to MEC Mr X Nqatha to raise alarm bells about the deterioration of the state of affairs in the O R Tambo District Municipality but of course we were ignored. Now that their ineptitude has been laid bare, they want to wash their hands off the people of the O R Tambo District Municipality.

This is an unconstitutional act which can never master constitutional scrutiny. The DA chooses to stand with the people of O R Tambo District Municipality and we object. I thank you.

Voting

Report adopted.

The Council adjourned at 09:54